

## 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](mailto: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](mailto: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](mailto: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	<a href="https://www.dhcs.ca.gov/individuals/Pages/StopMedi-CalFraud.aspx#:~:text=%E2%80%8B%E2%80%8B%E2%80%8B%E2%80%8B,Report%20it.&amp;text=%E2%80%8BThe%20Department%20of%20Health,call%20911%20for%20immediate%20assistance.">https://www.dhcs.ca.gov/individuals/Pages/StopMedi-CalFraud.aspx#:~:text=%E2%80%8B%E2%80%8B%E2%80%8B%E2%80%8B,Report%20it.&amp;text=%E2%80%8BThe%20Department%20of%20Health,call%20911%20for%20immediate%20assistance.</a> 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 <a href="mailto:fraud@dhcs.ca.gov">fraud@dhcs.ca.gov</a>
FL	<a href="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.">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.</a> 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 <a href="http://myfloridalegal.com">http://myfloridalegal.com</a> .
ID	<a href="https://www.ag.idaho.gov/office-resources/medicaid-fraud/">https://www.ag.idaho.gov/office-resources/medicaid-fraud/</a> To report Medicaid recipient fraud, contact the Idaho Department of Health & Welfare at 1-866-635-7515 or by e–mail at <a href="mailto:welfraud@dhw.idaho.gov">welfraud@dhw.idaho.gov</a> .
LA	<a href="https://ldh.la.gov/page/219#:~:text=1,488.2917%20for%20Provider%20Fraud%20complaints.">https://ldh.la.gov/page/219#:~:text=1,488.2917%20for%20Provider%20Fraud%20complaints.</a> 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 <b>Provider</b> Fraud complaints. Call toll-free 1.833.920.1773 for <b>Recipient</b> Fraud complaints.  2. Complete the appropriate form below, and submit it electronically. <ul style="list-style-type: none"><li><a href="#">Provider Fraud Form</a></li><li><a href="#">Recipient Fraud Form</a></li></ul> 3. Submit your <b>Provider</b> fraud complaint by mail to: Gainwell SURS Department 8591 United Plaza Blvd. Baton Rouge, LA 70809

State	Additional Information About The Fraud & Abuse Reporting Process
	<p>Submit your <b>Recipient</b> fraud complaint by mail to:</p> <p style="text-align: center;"><b>Customer Service Unit</b> Louisiana Department of Health P.O. Box 91278 Baton Rouge, LA 70821-9278</p> <p>4. Fax <b>Provider</b> Fraud complaints to 225.216.6129. Fax <b>Recipient</b> Fraud complaints to 225.389.2610.</p> <p><b>You can report anonymously.</b></p>
NM	<p><a href="https://www.nmag.gov/about-the-office/criminal-affairs/medicaid-fraud-control-unit/">https://www.nmag.gov/about-the-office/criminal-affairs/medicaid-fraud-control-unit/</a></p> <p><a href="https://www.hsd.state.nm.us/lookingforassistance/report_fraud/">https://www.hsd.state.nm.us/lookingforassistance/report_fraud/</a></p> <p>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</p>
NV	<p><a href="https://ag.nv.gov/About/Criminal_Justice/Medicaid_Fraud/">https://ag.nv.gov/About/Criminal_Justice/Medicaid_Fraud/</a></p> <p>If you suspect that Medicaid Fraud may be occurring, complete and submit one of the forms below by emailing it to <a href="mailto:mfcuintake@ag.nv.gov">mfcuintake@ag.nv.gov</a>. 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.</p> <ul style="list-style-type: none"> <li><a href="#">Complaint Form</a></li> </ul>
PA	<p><a href="https://www.dhs.pa.gov/about/Fraud-And-Abuse/Pages/MA-Fraud-and-Abuse---General-Information.aspx">https://www.dhs.pa.gov/about/Fraud-And-Abuse/Pages/MA-Fraud-and-Abuse---General-Information.aspx</a></p> <p>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:</p> <p style="text-align: center;"><b>Department of Human Services</b> Office of Administration Bureau of Program Integrity P.O. Box 2675 Harrisburg, PA 17105-2675</p>
TX	<p><a href="https://oig.hhs.texas.gov/report-fraud-waste-or-abuse#:~:text=Report%20suspected%20fraud%2C%20waste%20or.%2D436%2D6184%20or%20online.">https://oig.hhs.texas.gov/report-fraud-waste-or-abuse#:~:text=Report%20suspected%20fraud%2C%20waste%20or.%2D436%2D6184%20or%20online.</a></p> <p>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 <a href="#">online</a>.</p>
VA	<p><a href="https://www.dmas.virginia.gov/about-us/contact/fraud-and-abuse/">https://www.dmas.virginia.gov/about-us/contact/fraud-and-abuse/</a></p> <ul style="list-style-type: none"> <li>DMAS Fraud &amp; Abuse Referral Hotline at <a href="tel:1-866-486-1971">1-866-486-1971</a></li> <li>Email address: <a href="mailto:recipientfraud@dmas.virginia.gov">recipientfraud@dmas.virginia.gov</a></li> </ul>

State	Additional Information About The Fraud & Abuse Reporting Process
WY	<a href="https://ag.wyo.gov/law-office-division/medicaid-fraud-control-unit">https://ag.wyo.gov/law-office-division/medicaid-fraud-control-unit</a> <b>Report Fraud and Abuse:</b> You can report suspected fraud by a Medicaid provider or patient abuse, neglect, or exploitation in a Medicaid-funded facility by: <ul style="list-style-type: none"><li>▪ Filling out <a href="#">our online form</a>,</li><li>▪ Mailing us a completed <a href="#">paper form</a>,</li><li>▪ Emailing complaints to <a href="mailto:ag.medicaid.fraud@wyo.gov">ag.medicaid.fraud@wyo.gov</a>, or</li><li>▪ Calling the Medicaid Fraud Control Unit at 1-800-378-0345.</li><li>▪ 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.</li></ul>

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](mailto: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 of 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



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 USC § 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 USC § 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 USC §§ 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 USC §§ 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 USC § 1396b\(m\)\]](#)) providing items and services under a State plan approved under title XIX [\[42 USC §§ 1396](#) et seq.], or
  - (ii) an entity furnishing services under a waiver approved under section 1915(b)(1) [\[42 USC § 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 USC §§ 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 [\[42 USC § 1395mm\]](#) 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 [\[42 USC § 1320a-7a, 1320a-7b, or 1320a-8\]](#).
- (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 USC § 1320a-3\(a\)\(3\)\]](#)) in that entity,
  - (ii) who is an officer, director, agent, or managing employee (as defined in section 1126(b) [\[42 USC § 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 § 1395nn\(f\)\(2\)\(B\)](#)].
- (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 §§ 1395n-21](#) et seq.], prescription drug plan sponsors under part D of title XVIII [[42 USCS §§ 1395n-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, except 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 §§ 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 \[42 USCS §§ 1395\]](#) 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.

- (1) 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.

**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:

"(II) 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. 1395a](#); 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(II); 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 (h) (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 [\[42 USCS § 1396p-2\]](#) (relating to authorization to receive data directly relevant to eligibility determinations).
- (R) Section 1943(b) [\[42 USCS § 1396p-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).*

|                                       |                                      |                                   |                                             |                                      |
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| <a href="#"><i>Iowa</i></a>           | <a href="#"><i>Kansas</i></a>        | <a href="#"><i>Kentucky</i></a>   | <a href="#"><i>Louisiana</i></a>            | <a href="#"><i>Maine</i></a>         |
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| <a href="#"><i>Wyoming</i></a>        |                                      |                                   |                                             |                                      |

| State /Citation                 | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Alabama</u>                  | <b>Criminal and Civil Penalties for False Claims and Statements</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Code of Ala. § 22-1-11          | Other Helpful Information About Medicaid Fraud & Reporting Fraud<br><a href="https://www.medicaid.alabama.gov/content/8.0_Fraud/8.6_Reporting_Fraud.aspx">https://www.medicaid.alabama.gov/content/8.0_Fraud/8.6_Reporting_Fraud.aspx</a><br><a href="http://www.medicaid.alabama.gov/content/8.0_Fraud/8.5_Preventing_Providers.aspx">http://www.medicaid.alabama.gov/content/8.0_Fraud/8.5_Preventing_Providers.aspx</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Ala. Admin. Code r. 560-X-4-.04 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Ala. Admin. Code r. 560-X-4-.05 | Code of Ala. § 22-1-11                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Code of Ala. § 36-25-24         | <b>§ 22-1-11. False statements -- Bribery or solicitation of money.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Code of Ala. § 36-26A-2         | <p><b>(a)</b> Any person who, with intent to defraud or deceive, makes, or causes to be made or assists in the preparation of any false statement, representation, or omission of a material fact in any claim or application for any payment, regardless of amount, from the Medicaid Agency, knowing the same to be false; or with intent to defraud or deceive, makes, or causes to be made, or assists in the preparation of any false statement, representation, or omission of a material fact in any claim or application for medical benefits from the Medicaid Agency, knowing the same to be false; shall be guilty of a Class C felony. The offense set out herein shall not be complete until the claim or application is received by the Medicaid Agency or the contractor with the Medicaid Agency or its successor.</p> <p><b>(b)</b> Any person who knowingly solicits or receives any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind:</p> <p style="padding-left: 40px;"><b>(1)</b> 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 by the Medicaid Agency or its agents, or</p> <p style="padding-left: 40px;"><b>(2)</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 by the Medicaid Agency, or its agents shall be guilty of a Class C felony.</p> <p><b>(c)</b> Any person who knowingly 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 a person 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 by the Medicaid Agency or its agents, or 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 by the Medicaid Agency, or its agents, shall be guilty of a Class C felony.</p> <p><b>(d)</b></p> <p style="padding-left: 40px;"><b>(1)</b> Subsections (b) and (c) of this section shall not apply to a discount or other reduction in price obtained by a provider of services or other entity under Medicaid if the reduction in price is properly disclosed and appropriately reflected in costs claimed or charges made by the provider or entity to the Medicaid Agency or its agents, or any amount paid by an employer to an employee who has a bona fide employment relationship with employer for employment in the provision of covered items or services.</p> <p style="padding-left: 40px;"><b>(2)</b> Subsections (b) and (c) shall not apply to any payment practice identified as an exception enumerated in <a href="#">42 C.F.R. 1001.952</a>.</p> <p><b>(e)</b> Any two or more offenses in violation of this section may be charged in the same indictment in separate counts for each offense and the offense shall be tried together, with separate sentences being imposed for each offense for which the defendant is found guilty.</p> <p><b>(f)</b> No prosecution under this section may be commenced after six years from the date of the completion of the offense.</p> <p><b>(g)</b> For the purposes of this section, the term “person” includes any individual, partnership, corporation, or association.</p> <p><b><i>History - Acts 1980, No. 80-539; Acts 1996, No. 96-529; Acts 2017, No. 17-66, § 1, June 1, 2017.</i></b></p> |
|                                 | <p>ALABAMA MEDICAID AGENCY<br/>Information About Fraud Prevention - @ <a href="http://www.medicaid.alabama.gov/content/8.0_Fraud/">http://www.medicaid.alabama.gov/content/8.0_Fraud/</a><br/>Report Fraud @ <a href="http://www.medicaid.alabama.gov/content/8.0_Fraud/8.6_Reporting_Fraud.aspx">http://www.medicaid.alabama.gov/content/8.0_Fraud/8.6_Reporting_Fraud.aspx</a></p> <p><b>Contact Medicaid to report fraud at:</b></p> <ul style="list-style-type: none"><li>• 1 (866) 452-4930 (toll-free call)</li><li>• Write to Program Integrity Division, Alabama Medicaid, PO Box 5624, Montgomery, AL 36103-5624</li></ul> <p>CHAPTER 560-X-4: PROGRAM INTEGRITY DIVISION<br/><a href="https://medicaid.alabama.gov/content/8.0_Fraud/8.2_Program_Integrity.aspx">https://medicaid.alabama.gov/content/8.0_Fraud/8.2_Program_Integrity.aspx</a></p> <p><a href="http://www.medicaid.alabama.gov/documents/9.0_Resources/9.2_Administrative_Code/9.2_Adm_Code_Chap_4_Program_Integrity_10-26-18.pdf">http://www.medicaid.alabama.gov/documents/9.0_Resources/9.2_Administrative_Code/9.2_Adm_Code_Chap_4_Program_Integrity_10-26-18.pdf</a></p> <p>RULE TITLE PAGE</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | 560-X-4-.01 - General 1<br>560-X-4-.02 - Purpose 1<br>560-X-4-.03 - Method 2<br>560-X-4-.04 - Fraud and Abuse by Providers 3<br>560-X-4-.05 - Abuse, Fraud, and/or Deliberate Misuse by Recipients or Sponsors of Recipients 6<br>560-X-4-.06 - Medicaid Eligibility Quality Control<br>560-X-4-.04 Fraud And Abuse By Providers.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                 | Qui Tam Actions & Remedies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                 | TTITLE 36 Public Officers and Employees<br>CHAPTER 26A State Employees Protection<br>Code of Ala. § 36-26A-4<br><br>§ 36-26A-4. Civil actions.<br><br>(a) A state employee shall bring a civil action within two years after the occurrence of the alleged violation of this chapter.<br><br>(b) A civil action may be brought in Montgomery County, or in the county in which the supervisor against whom the civil complaint is filed resides.<br>HISTORY: <u>Acts 1994, No. 94-244.</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                 | Whistle-blower Protections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                 | TTITLE 36 Public Officers and Employees<br>CHAPTER 25 Code of Ethics for Public Officials, Employees, etc.<br>Code of Ala. § 36-25-24<br><br>§ 36-25-24. Complaints; filing.<br><br>(a) A supervisor shall not discharge, demote, transfer, or otherwise discriminate against a public employee regarding such employee's compensation, terms, conditions, or privileges of employment based on the employee's reporting a violation, or what he or she believes in good faith to be a violation, of this chapter or giving truthful statements or truthful testimony concerning an alleged ethics violation.<br><br>(b) Nothing in this chapter shall be construed in any manner to prevent or prohibit or otherwise limit a supervisor from disciplining, discharging, transferring, or otherwise affecting the terms and conditions of a public employee's employment so long as the disciplinary action does not result from or is in no other manner connected with the public employee's filing a complaint with the commission, giving truthful statements, and truthfully testifying.<br><br>(c) No public employee shall file a complaint or otherwise initiate action against a public official or other public employee without a good faith basis for believing the complaint to be true and accurate.<br><br>(d) A supervisor who is alleged to have violated this section shall be subject to civil action in the circuit courts of this state pursuant to the Alabama Rules of Civil Procedure as promulgated by the Alabama Supreme Court.<br><br>(e) A public employee who without a good faith belief in the truthfulness and accuracy of a complaint filed against a supervisor, shall be subject to a civil action in the circuit courts in the State of Alabama pursuant to the Alabama Rules of Civil Procedure as promulgated by the Supreme Court. Additionally, a public employee who without a good faith belief in the truthfulness and accuracy of a complaint as filed against a supervisor shall be subject to appropriate and applicable personnel action. |

| State /Citation          | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                          | <p>(f) Nothing in this section shall be construed to allow a public employee to file a complaint to prevent, mitigate, lessen, or otherwise to extinguish existing or anticipated personnel action by a supervisor. A public employee who willfully files such a complaint against a supervisor shall, upon conviction, be guilty of the crime of false reporting.</p> <p><b>HISTORY:</b> <a href="#">Acts 1995, No. 95-194.</a></p> <p>TITLE 36 Public Officers and Employees<br/>CHAPTER 26A State Employees Protection<br/>Code of Ala. § 36-26A-2</p> <p><b>§ 36-26A-2. Definitions.</b></p> <p>As used in this chapter, the following words and phrases have the following meanings:</p> <p><b>(1) Public body.</b> All of the following:</p> <p class="list-item-l1">a. A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.</p> <p class="list-item-l1">b. An agency, board, commission, council, member, or employee of the legislative branch of state government.</p> <p class="list-item-l1">c. A law enforcement agency, including the offices of the Attorney General and district attorneys, or any member or employee of a law enforcement agency.</p> <p class="list-item-l1">d. The judicial branch of state government and any member or employee of that branch.</p> <p><b>(2) State employee.</b> A person defined as a classified employee under Section 36-26-2.</p> <p><b>(3) Supervisor.</b> Any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, regard, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of the authority is not of a merely routine or clerical nature but requires the use of independent judgment.</p> <p><b>HISTORY:</b> <a href="#">Acts 1994, No. 94-244.</a></p> <p>Code of Ala. § 36-26A-3</p> <p><b>§ 36-26A-3. Prohibited acts.</b></p> <p>A supervisor shall not discharge, demote, transfer, or otherwise discriminate against a state employee regarding the state employee's compensation, terms, conditions, or privileges of employment if the state employee, reports, under oath or in the form of an affidavit, a violation of a law, a regulation, or a rule, promulgated pursuant to the laws of this state, or a political subdivision of this state, to a public body.</p> <p><b>HISTORY:</b> <a href="#">Acts 1994, No. 94-244.</a></p> |
| <a href="#">Alaska</a>   | <b>Criminal and Civil Penalties for False Claims and Statements</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Alaska Stat. § 47.05.210 | <b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Alaska Stat. § 47.05.240 | Alaska Medicaid Agency<br><a href="https://dhss.alaska.gov/dpa/Pages/hap/fraud.aspx">https://dhss.alaska.gov/dpa/Pages/hap/fraud.aspx</a> Email: <a href="mailto:fraud_allegations@alaska.gov">fraud_allegations@alaska.gov</a><br><a href="http://dpaweb.hss.state.ak.us/e-forms/pdf/DPA-03.pdf">http://dpaweb.hss.state.ak.us/e-forms/pdf/DPA-03.pdf</a><br>Report Fraud @ <a href="http://law.alaska.gov/departments/criminal/mfcu.html">http://law.alaska.gov/departments/criminal/mfcu.html</a><br><b>Message Hotline to Report Medicaid Fraud 1-907-269-6279</b><br>Alaska Medical Assistance False Claim and Reporting Act                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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|                 | <p><i>Alaska Stat. § 09.58.010 - False claims for medical assistance; civil penalty.</i></p> <hr/> <p>(a) A medical assistance provider or medical assistance recipient may not</p> <p>(1) knowingly submit, authorize, or cause to be submitted to an officer or employee of the state a false or fraudulent claim for payment or approval under the medical assistance program;</p> <p>(2) knowingly make, use, or cause to be made or used, directly or indirectly, a false record or statement to get a false or fraudulent claim for payment paid or approved by the state under the medical assistance program;</p> <p>(3) conspire to defraud the state by getting a false or fraudulent claim paid or approved under the medical assistance program;</p> <p>(4) knowingly make, use, or cause to be made or used, a false record or statement to conceal, avoid, increase, or decrease an obligation to pay or transmit money or property to the medical assistance program;</p> <p>(5) knowingly enter into an agreement, contract, or understanding with an officer or employee of the state for approval or payment of a claim under the medical assistance program knowing that the information in the agreement, contract, or understanding is false or fraudulent.</p> <p>(b) A beneficiary of an intentional or inadvertent submission of a false or fraudulent claim under the medical assistance program who later discovers the claim is false or fraudulent shall disclose the false or fraudulent claim to the state not later than 60 days after discovering the false claim.</p> <p>(c) In addition to any criminal penalties under <a href="#">AS 47.05</a>, a medical assistance provider or medical assistance recipient who violates (a) or (b) of this section shall be liable to the state in a civil action for</p> <p>(1) a civil penalty of not less than \$5,500 and not more than \$11,000;</p> <p>(2) three times the amount of actual damages sustained by the state;</p> <p>(3) full reasonable attorney fees and costs in a case involving a fraudulent claim, agreement, contract, or understanding; and</p> <p>(4) reasonable attorney fees and costs calculated under applicable court rules in a case that does not involve a fraudulent claim, agreement, contract, or understanding.</p> <p>(d) Liability for actual damages under (c) of this section may be reduced to not less than twice the amount of actual damages that the state sustains if the court finds that a person liable for an act under (a) or (b) of this section</p> <p>(1) furnished the attorney general or the Department of Health and Social Services with all information known to the person about the violation not later than 30 days after the date the information was obtained;</p> <p>(2) fully cooperated with the investigation of the violation under <a href="#">AS 09.58.020</a>;</p> <p>(3) at the time the person furnished the attorney general with the information about the violation, no criminal prosecution, civil action, investigation, or administrative action had been started in this state with respect to the violation, and the person did not have actual knowledge of the existence of an investigation of the violation.</p> <p>(e) A corporation, partnership, or other individual is liable under this section for acts of its agents if the agent acted with apparent authority, regardless of whether the agent acted, in whole or in part, to benefit the principal and regardless of whether the principal adopted or ratified the agent's claims, representations, statement, or other action or conduct.</p> <p>History - (§ 18 <a href="#">ch 25 SLA 2016</a>)</p> <p><i>Sec. 09.58.015. Attorney general investigation; civil action.</i></p> <hr/> <p>(a) The attorney general or the Department of Health and Social Services may investigate an alleged violation of <a href="#">AS 09.58.010</a>. The attorney general may request assistance from the Department of Health and Social Services in an investigation under this section.</p> <p>(b) The attorney general may bring a civil action in superior court under <a href="#">AS 09.58.010</a> — <a href="#">09.58.025</a>.</p> <p>History - (§ 18 <a href="#">ch 25 SLA 2016</a>; am § 3 <a href="#">ch 3 SLA 2017</a>)</p> <hr/> <p>Alaska Stat. § 47.05.210<br/><b>Medical Assistance Fraud</b><br/><a href="http://touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter05/Section210.htm">http://touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter05/Section210.htm</a><br/>Sec. 47.05.210. Medical assistance fraud</p> <p>(a) A person commits the crime of medical assistance fraud if the person</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>(1) knowingly submits or authorizes the submission of a claim to a medical assistance agency for property, services, or a benefit with reckless disregard that the claimant is not entitled to the property, services, or benefit;</p> <p>(2) knowingly prepares or assists another person to prepare a claim for submission to a medical assistance agency for property, services, or a benefit with reckless disregard that the claimant is not entitled to the property, services, or benefit;</p> <p>(3) except as otherwise authorized under the medical assistance program, confers, offers to confer, solicits, agrees to accept, or accepts property, services, or a benefit</p> <p>(A) to refer a medical assistance recipient to a health care provider; or</p> <p>(B) for providing health care to a medical assistance recipient if the property, services, or benefit is in addition to payment by a medical assistance agency;</p> <p>(4) does not produce medical assistance records to a person authorized to request the records;</p> <p>(5) knowingly makes a false entry in or falsely alters a medical assistance record;</p> <p>(6) knowingly destroys, mutilates, suppresses, conceals, removes, or otherwise impairs the verity, legibility, or availability of a medical assistance record knowing that the person lacks the authority to do so; or</p> <p>(7) violates a provision of <a href="#">AS 47.07</a> or <a href="#">AS 47.08</a> or a regulation adopted under <a href="#">AS 47.07</a> or <a href="#">AS 47.08</a>.</p> <p>(b) Medical assistance fraud under (a)(1), (2), or (3) of this section is</p> <p>(1) a class B felony if the portion of the claim or claims submitted in violation of (a)(1) or (2) of this section, or the value of the property, services, or benefit that is in violation of (a)(3) of this section, is \$ 25,000 or more;</p> <p>(2) a class C felony if the portion of the claim or claims submitted in violation of (a)(1) or (2) of this section, or the value of the property, services, or benefit that is in violation of (a)(3) of this section, is \$ 500 or more but less than \$ 25,000;</p> <p>(3) a class A misdemeanor if the portion of the claim or claims submitted in violation of (a)(1) or (2) of this section, or the value of the property, services, or benefit that is in violation of (a)(3) of this section, is less than \$ 500.</p> <p>(c) Medical assistance fraud under (a)(4), (5), or (6) of this section is a class A misdemeanor.</p> <p>(d) Medical assistance fraud under (a)(7) of this section is a class B misdemeanor.</p> <p><b>HISTORY:</b> (§ 3 <a href="#">ch 66 SLA 2003</a>)</p> <p>Alaska Stat. § 47.05.240</p> <p><b>Exclusion from Medical Assistance Programs</b></p> <p><a href="http://touchngo.com/lglcntr/akstats/Statutes/Title47/Chapter05/Section240.htm">http:// touchngo.com/ lglcntr/ akstats/ Statutes/ Title47/ Chapter05/ Section240.htm</a></p> <p>Sec. 47.05.240. Exclusion from medical assistance programs</p> <p>(a) The commissioner may exclude an applicant to or disenroll a medical assistance provider in the medical assistance program in <a href="#">AS 47.07</a> or <a href="#">AS 47.08</a>, or both, for a period of up to 10 years after unconditional discharge on a conviction</p> <p>(1) for medical assistance fraud under <a href="#">AS 47.05.210</a> or misconduct involving a controlled substance under <a href="#">AS 11.71</a>; or</p> <p>(2) in a court of the United States or a court of another state or territory, for a crime with elements similar to the crimes included under (1) of this subsection.</p> <p>(b) After a period of exclusion under (a) of this section, an applicant may not participate in a medical assistance program under <a href="#">AS 47.07</a> or <a href="#">AS 47.08</a> until the applicant establishes to the commissioner by clear and convincing evidence that the applicant possesses all required licenses and certificates and is qualified to participate.</p> <p><b>HISTORY:</b> (§ 3 <a href="#">ch 66 SLA 2003</a>)</p> |
|                 | Qui Tam Actions & Remedies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |



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|                 | <p><i>Sec. 09.58.020. Private plaintiff; civil action. [Repealed July 1, 2019.]</i></p> <hr/> <p>(a) Notwithstanding <a href="#">AS 09.58.015</a>, a person may bring an action under this section for a violation of <a href="#">AS 09.58.010</a> in the name of the person and the state.</p> <p>(b) To bring an action under this section, a person shall file a complaint, in camera and under seal, and serve on the attorney general</p> <p>(1) a copy of the complaint; and</p> <p>(2) written disclosure of substantially all material evidence and information the person possesses that pertains to the claim.</p> <p>(c) A complaint filed under this section must remain under seal for at least 60 days and may not be served on the defendant until the court so orders. The attorney general may elect to intervene and proceed with the action within 60 days after the attorney general receives the complaint, the material evidence, and the information required under (b) of this section. The attorney general may, for good cause shown, move the court, under seal, for an extension of the time during which the complaint remains under seal under this subsection.</p> <p>(d) Before the expiration of the 60-day period or an extension of time granted under (c) of this section, the attorney general shall conduct an investigation and make a written determination as to whether substantial evidence exists that a violation of <a href="#">AS 09.58.010</a> has occurred. After the investigation and determination are complete, the attorney general shall provide the person who brought the action and the Department of Health and Social Services with a copy of the determination unless the action has been referred to the division of the <a href="#">Department of Law</a> that has responsibility for criminal cases.</p> <p>(e) Before the expiration of the 60-day period or an extension obtained under (c) of this section, the attorney general shall</p> <p>(1) intervene in the action and proceed with the action on behalf of the state;</p> <p>(2) notify the court that the attorney general declines to take over the action, in which case the person bringing the action has the right to conduct the action; or</p> <p>(3) if the attorney general determines that substantial evidence does not exist that a violation of <a href="#">AS 09.58.010</a> has occurred, or that the action is barred under <a href="#">AS 09.58.050</a>, the attorney general shall move the court to dismiss the action.</p> <p>(f) The named defendant in a complaint filed under this section is not required to respond to a complaint filed under this section until after the complaint is unsealed by the court and a copy of the summons and complaint are served on the defendant under the applicable Alaska Rules of Civil Procedure.</p> <p>(g) When a person brings an action under this section, only the attorney general may intervene or bring a related action based on similar facts to the underlying action.</p> <p><i>History - (§ 18 <a href="#">ch 25 SLA 2016</a>)</i></p> <p><i>Sec. 09.58.040. Award to false or fraudulent claim plaintiff. [Repealed July 1, 2019.]</i></p> <hr/> <p>(a) If the attorney general proceeds with an action brought by a person for a violation of <a href="#">AS 09.58.010</a>, the person who brought the action shall receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending on the extent to which the person bringing the action contributed to the prosecution of the action. The court order or settlement agreement shall state the percentage and the amount to be received by the person who brought the action. A payment under this subsection to the person who brought the action may be paid only from proceeds received from a judgment or settlement under this section.</p> <p>(b) If the attorney general does not proceed with an action brought under <a href="#">AS 09.58.020</a>, the person bringing the action to judgment or settlement by court order shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages based on the person’s effort to prosecute the action successfully. The amount shall be at least 25 percent but not more than 30 percent of the proceeds of the action or settlement of the claim. A payment under this subsection to the person who brought the action may be paid only from proceeds received from a judgment or settlement received under this section. In addition, if the person bringing the action prevails, the person is entitled to</p> <p>(1) full reasonable attorney fees and court costs in a case involving a fraudulent claim, agreement, contract, or understanding; or</p> <p>(2) reasonable attorney fees and court costs calculated under applicable court rules in a case that does not involve a fraudulent claim, agreement, contract, or understanding.</p> <p>(c) Whether or not the attorney general participates in the action, if the court finds that the action was brought by a person who planned or initiated the violation alleged in the action brought under <a href="#">AS 09.58.020</a>, 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 (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 <a href="#">AS 09.58.010</a>, the court shall dismiss the person from the civil action and the person may not receive any share of the proceeds of the action or settlement. A dismissal under this subsection does not prejudice the right of the attorney general to continue the action.</p> <p>(d) In this section, “proceeds of the action or settlement”</p> <p>(1) includes damages, civil penalties, payment for cost of compliance, and other economic benefits realized by the state as a result of a civil action brought under <a href="#">AS 09.58.010</a> — <a href="#">09.58.060</a>;</p> <p>(2) does not include attorney fees and costs awarded to the state.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p><i>History - (§ 18 <a href="#">ch 25 SLA 2016</a>)</i></p> <hr/> <p><b>Whistle-blower Protections</b></p> <p><a href="#">Alaska Statutes</a><br/><a href="#">Title 9. Code of Civil Procedure. (Chs. 05 — 80)</a><br/><b>Chapter 58. Alaska Medical Assistance False Claim and Reporting Act. (§§ 09.58.010 — 09.58.110</b><br/><i>Alaska Stat. § 09.58.070 - Employee protection for retaliation.</i></p> <hr/> <p>(a) An employee of a medical assistance provider who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment by the employee’s employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this chapter, including investigation for, initiation of, testimony for or assistance in an action filed or to be filed under this chapter, is entitled to the same relief authorized under <a href="#">AS 39.90.120</a>.</p> <p>(b) <b>[See delayed amendment note.]</b> Notwithstanding (a) of this section, a state employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment because of lawful acts done by the employee on behalf of the employee or a person who brings an action under <a href="#">AS 09.58.020</a> or in furtherance of an action under this chapter, including investigation, initiation of, testimony for or assistance in an action filed or to be filed under this chapter, is entitled to relief under <a href="#">AS 39.90.100</a> - <a href="#">39.90.150</a> (Alaska Whistleblower Act).</p> <p>(c) A person may not bring an action under this section unless the action is commenced not later than three years after the date the employee was subject to retaliation under (a) or (b) of this section.</p> <p>History - (§ 18 <a href="#">ch 25 SLA 2016</a>)</p> |
|                 | <p>TITLE 39. PUBLIC OFFICERS AND EMPLOYEES<br/>CHAPTER 90. MISCELLANEOUS PROVISIONS<br/>ARTICLE 2. PROTECTION FOR WHISTLEBLOWERS<br/>Alaska Stat. § 39.90.100 - Persons protected</p> <p><a href="http://touchngo.com/legentr/akstats/Statutes/Title39/Chapter90/Section100.htm">http://touchngo.com/legentr/akstats/Statutes/Title39/Chapter90/Section100.htm</a></p> <p>Sec. 39.90.100. Persons protected</p> <p>(a) A public employer may not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because</p> <p>(1) the employee, or a person acting on behalf of the employee, reports to a public body or is about to report to a public body a matter of public concern; or</p> <p>(2) the employee participates in a court action, an investigation, a hearing, or an inquiry held by a public body on a matter of public concern.</p> <p>(b) A public employer may not disqualify a public employee or other person who reports a matter of public concern or participates in a proceeding connected with a matter of public concern before a public body or court, because of the report or participation, from eligibility to</p> <p>(1) bid on contracts with the public employer;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| State /Citation                                                                                                                                                                                                                                                                                                                                                                                  | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                                                                                                                                                                                                                                                                                                                                                                                                  | <p>(2) receive land under a law of the state or an ordinance of the municipality; or</p> <p>(3) receive another right, privilege, or benefit.</p> <p>(c) The provisions of <a href="#">AS 39.90.100</a> -- <a href="#">39.90.150</a> do not</p> <p>(1) require an employer to compensate an employee for participation in a court action or in an investigation, hearing, or inquiry by a public body;</p> <p>(2) prohibit an employer from compensating an employee for participation in a court action or in an investigation, hearing, or inquiry by a public body;</p> <p>(3) authorize the disclosure of information that is legally required to be kept confidential; or</p> <p>(4) diminish or impair the rights of an employee under a collective bargaining agreement.</p> <p>(d) An employer shall post notices and use other appropriate means to inform employees of their protections and obligations under <a href="#">AS 39.90.100</a> -- <a href="#">39.90.150</a>.</p> <p><b>HISTORY:</b> (§ 1 <a href="#">ch 27 SLA 1989</a>)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p><u>Arizona</u></p> <p>A.R.S. § 36-2918</p> <p>A.R.S. § 36-2918.01</p> <p>A.R.S. § 23-1501, <i>et seq.</i></p> <p>A.R.S. § 38-532</p> <p>A.A.C. § R9-22-1101 <i>et seq.</i></p> <p>A.R.S. § 36-427</p> <p>A.R.S. § 13-2310</p> <p>A.R.S. § 13-2311</p> <p>A.R.S. § 13-3713</p> <p>A.R.S. § 36-2957</p> <p>A.R.S. § 13-1802</p> <p>A.R.S. § 13-2002</p> <p>A.R.S. § 36-450 <i>et seq.</i> –</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b></p> <p><i>State Bulletin/Notice - Section 6032 of the Deficit Reduction Act of 2005 – Education About False Claims Recovery</i></p> <p><a href="https://www.azahcccs.gov/shared/Downloads/ACOM/PolicyFiles/100/103.pdf">https://www.azahcccs.gov/shared/Downloads/ACOM/PolicyFiles/100/103.pdf</a></p> <p><b>Arizona Medicaid @ <a href="https://www.azahcccs.gov/Fraud/Providers/">https://www.azahcccs.gov/Fraud/Providers/</a></b></p> <p><b>Report Fraud @ <a href="https://www.azahcccs.gov/Fraud/ReportFraud/">https://www.azahcccs.gov/Fraud/ReportFraud/</a></b></p> <p><b>Public Health and Safety- Arizona Health Care Cost Containment System Administration-</b></p> <p>A.R.S. § 36-2918</p> <p><b><i>Prohibited acts; penalties; subpoena power</i></b></p> <p><a href="http://www.azleg.gov/ars/36/02918.htm">http:// www.azleg.gov/ars/36/02918.htm</a></p> <p>A. A person may not present or cause to be presented to this state or to a contractor:</p> <p>1. A claim for a medical or other item or service that the person knows or has reason to know was not provided as claimed.</p> <p>2. A claim for a medical or other item or service that the person knows or has reason to know is false or fraudulent.</p> <p>3. A claim for payment that the person knows or has reason to know may not be made by the system because:</p> <p>(a) The person was terminated or suspended from participation in the program on the date for which the claim is being made.</p> <p>(b) The item or service claimed is substantially in excess of the needs of the individual or of a quality that fails to meet professionally recognized standards of health care.</p> <p>(c) The patient was not a member on the date for which the claim is being made.</p> <p>4. A claim for a physician's service or an item or service incidental to a physician's service, by a person who knows or has reason to know that the individual who furnished or supervised the furnishing of the service:</p> <p>(a) Was not licensed as a physician.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(b) Obtained the license through a misrepresentation of material fact.</p> <p>(c) 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 if the individual was not certified.</p> <p>5. A request for payment that the person knows or has reason to know is in violation of an agreement between the person and this state or the administration.</p> <p>B. A person who violates a provision of subsection A of this section is subject, in addition to any other penalties that may be prescribed by federal or state law, to a civil penalty of not to exceed two thousand dollars for each item or service claimed and is subject to an assessment of not to exceed twice the amount claimed for each item or service.</p> <p>C. The director or the director's designee shall make the determination to assess civil penalties and is responsible for the collection of penalty and assessment amounts. The director shall adopt rules that prescribe procedures for the determination and collection of civil penalties and assessments. Civil penalties and assessments imposed under this section may be compromised by the director or the director's designee in accordance with criteria established in rules. The director or director's designee may make this determination in the same proceeding to exclude the person from system participation.</p> <p>D. A person who is adversely affected by a determination of the director or the director's designee under this section may appeal that decision in accordance with provider grievance provisions set forth in rule. The final decision is subject to judicial review in accordance with title 12, chapter 7, article 6.</p> <p>E. Amounts recovered under this section shall be deposited in the state general fund. The amount of such penalty or assessment may be deducted from any amount then or later owing by the administration or this state to the person against whom the penalty or assessment has been imposed.</p> <p>F. If a civil penalty or assessment imposed pursuant to subsection C of this section is not paid, this state or the administration shall file an action to collect the civil penalty or assessment in the superior court in Maricopa county. Matters that were raised or could have been raised in a hearing before the director or in an appeal pursuant to title 12, chapter 7, article 6 may not be raised as a defense to the civil action. An action brought pursuant to this subsection shall be initiated within six years after the date the claim was presented, except that the time to file a collection action is tolled either:</p> <p>1. After any administrative action arising out of or referencing the wrongful acts is commenced and until the action's final resolution, including any legal challenges to the action.</p> <p>2. While the state and the administration did not know, and with the exercise of reasonable diligence, should not have known, that a claim was false, fraudulent or not provided as claimed.</p> <p>G. Pursuant to an investigation of prohibited acts or fraud and abuse involving the system, the director, and any person designated by the director in writing, may examine any person under oath and issue a subpoena to any person to compel the attendance of a witness. The administration by subpoena may compel the production of any record in any form necessary to support an investigation or an audit. The administration shall serve the subpoenas in the same manner as subpoenas in a civil action. If the subpoenaed person does not appear or does not produce the record, the director or the director's designee by affidavit may apply to the superior court in the county in which the controversy occurred and the court in that county shall proceed as though the failure to comply with the subpoena had occurred in an action in the court in that county.</p> <p><b>HISTORY:</b> <a href="#">Laws 2001, Ch. 344, § 65</a>; <a href="#">Laws 2013, 1st Reg. Sess., Ch. 144, § 1</a>.</p> <p><b>Public Health and Safety- Arizona Health Care Cost Containment System Administration-</b><br/>A.R.S. § 36-2918.01 - <i>Duty to report fraud or abuse; immunity</i><br/><a href="http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/02918-01.htm">http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/02918-01.htm</a><br/><i>A. All contractors, subcontracted providers of care and noncontracting providers shall notify the director or the director's designee immediately in a written report of any cases of suspected fraud or abuse. The director shall review the report and conduct a preliminary investigation to determine if there is sufficient basis to warrant a full investigation. If the findings of a preliminary investigation give the director reason to believe that an incident of fraud or abuse has occurred, the matter shall be referred to the attorney general.</i></p> <p><i>B. Any person making a complaint or furnishing a report, information or records in good faith pursuant to this section is immune from any civil liability by reason of that action unless that person has been charged with or is suspected of the fraud or abuse reported.</i></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p><i>C. Any contractor, subcontracted provider of care or noncontracting provider who fails to report pursuant to this section commits an act of unprofessional conduct and is subject to disciplinary action by the appropriate professional regulatory board or department.</i></p> <p><b>HISTORY:</b> <a href="#">Laws 2001, Ch. 344, § 66.</a></p> <p>CHAPTER 23. ORGANIZED CRIME, FRAUD AND TERRORISM<br/>A.R.S. § 13-2311</p> <p><b>§ 13-2311. Fraudulent schemes and practices; wilful concealment; classification</b></p> <p>A. Notwithstanding any provision of the law to the contrary, in any matter related to the business conducted by any department or agency of this state or any political subdivision thereof, any person who, pursuant to a scheme or artifice to defraud or deceive, knowingly falsifies, conceals or covers up a material fact by any trick, scheme or device or makes or uses any false writing or document knowing such writing or document contains any false, fictitious or fraudulent statement or entry is guilty of a class 5 felony.</p> <p>B. For the purposes of this section, "agency" includes a public agency as defined by <a href="#">section 38-502</a>, paragraph 6.</p> <p><b>HISTORY:</b> Last year in which legislation affected this section: 1980</p> <p>A.R.S. § 36-427<br/><b>Public Health and Safety- Health Care Institutions-</b><br/><i>Suspension or revocation; intermediate sanctions</i><br/><a href="http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/00427.htm">http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/00427.htm</a><br/>A.R.S. § 36-427 - <b>Suspension or revocation; intermediate sanctions</b><br/><b>Legislative Alert:</b><br/><a href="#">LEXSEE 2016 Ariz. ALS 77</a> -- See section 3.</p> <p><b>First of two versions of this section.</b></p> <p><b>A.</b> The director, pursuant to title 41, chapter 6, article 10, may suspend or revoke, in whole or in part, the license of any health care institution if its owners, officers, agents or employees:</p> <ol style="list-style-type: none"><li>1. Violate this chapter or the rules of the department adopted pursuant to this chapter.</li><li>2. Knowingly aid, permit or abet the commission of any crime involving medical and health related services.</li><li>3. Have been, are or may continue to be in substantial violation of the requirements for licensure of the institution, as a result of which the health or safety of one or more patients or the general public is in immediate danger.</li><li>4. Fail to comply with <a href="#">section 36-2901.08</a>.</li></ol> <p><b>B.</b> If the licensee, the chief administrative officer or any other person in charge of the institution refuses to permit the department or its employees or agents the right to inspect its premises as provided in <a href="#">section 36-424</a>, such action shall be deemed reasonable cause to believe that a substantial violation under subsection A, paragraph 3 of this section exists.</p> <p><b>C.</b> If the director reasonably believes that a violation of subsection A, paragraph 3 of this section has occurred and that life or safety of patients will be immediately affected, the director, on written notice to the licensee, may order the immediate restriction of admissions or readmissions, selected transfer of patients out of the facility, reduction of capacity and termination of specific services, procedures, practices or facilities.</p> <p><b>D.</b> The director may rescind, in whole or in part, sanctions imposed pursuant to this section upon correction of the violation or violations for which the sanctions were imposed.</p> <p><b>HISTORY:</b> Last legislative year: 2013.; Recent legislative history: <a href="#">Laws 2000, Ch. 113, § 150</a>; <a href="#">Laws 2013, 1st Sp. Sess., Ch. 10, § 2</a>.</p> <p>A.R.S. § 36-427 - <b>Suspension or revocation; intermediate sanctions</b><br/><b>Legislative Alert:</b><br/><a href="#">LEXSEE 2016 Ariz. ALS 77</a> -- See section 3.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p><b>Second of two versions of this section.</b></p> <p><b>A.</b> The director, pursuant to title 41, chapter 6, article 10, may suspend or revoke, in whole or in part, the license of any health care institution if its owners, officers, agents or employees:</p> <ol style="list-style-type: none"><li>1. Violate this chapter or the rules of the department adopted pursuant to this chapter.</li><li>2. Knowingly aid, permit or abet the commission of any crime involving medical and health-related services.</li><li>3. Have been, are or may continue to be in substantial violation of the requirements for licensure of the institution, as a result of which the health or safety of one or more patients or the general public is in immediate danger.</li><li>4. Fail to comply with <a href="#">section 36-2901.08</a>.</li><li>5. Violate <a href="#">section 36-2302</a>.</li></ol> <p><b>B.</b> If the licensee, the chief administrative officer or any other person in charge of the institution refuses to permit the department or its employees or agents the right to inspect the institution's premises as provided in <a href="#">section 36-424</a>, such action shall be deemed reasonable cause to believe that a substantial violation under subsection A, paragraph 3 of this section exists.</p> <p><b>C.</b> If the director reasonably believes that a violation of subsection A, paragraph 3 of this section has occurred and that life or safety of patients will be immediately affected, the director, on written notice to the licensee, may order the immediate restriction of admissions or readmissions, selected transfer of patients out of the facility, reduction of capacity and termination of specific services, procedures, practices or facilities.</p> <p><b>D.</b> The director may rescind, in whole or in part, sanctions imposed pursuant to this section on correction of the violation or violations for which the sanctions were imposed.</p> <p><b>HISTORY:</b> Last legislative year: 2013.; Recent legislative history: <a href="#">Laws 2000, Ch. 113, § 150</a>; <a href="#">Laws 2013, 1st Sp. Sess., Ch. 10, § 2</a>; <a href="#">Laws 2016, 2nd Reg. Sess., Ch. 77, § 3</a>.</p> <p>CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION<br/>ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS<br/>A.A.C. § R9-22-1101<br/><b>Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims; Definitions</b></p> <p>A. Scope. This Article applies to prohibited acts as described under <a href="#">A.R.S. § 36-2918(A)</a>, and submissions of encounters to the Administration. The Administration considers a person who aids and abets a prohibited act affecting any of the AHCCCS programs or Health Care Group to be engaging in a prohibited act under <a href="#">A.R.S. § 36-2918(A)</a>.</p> <p>B. Purpose. This Article describes the circumstances AHCCCS considers and the process that AHCCCS uses to determine the amount of a penalty, assessment, or penalty and assessment as required under <a href="#">A.R.S. § 36-2918</a>. This Article includes the process and time-frames used by a person to request a State Fair Hearing.</p> <p>C. Definitions. The following definitions apply to this Article:</p> <ol style="list-style-type: none"><li>1. "Assessment" means a monetary amount that does not exceed twice the dollar amount claimed by the person for each service.</li><li>2. "Claim" means a request for payment submitted by a person for payment for a service or line item of service, including a submission of an encounter.</li><li>3. "Day" means calendar day unless otherwise specified.</li><li>4. "File" means the date that AHCCCS receives a written acceptance, request for compromise, request for a counter proposal, or a request for a State Fair Hearing as established by a date stamp on the written document or other record of receipt.</li><li>5. "Penalty" means a monetary amount, based on the number of items of service claimed or reported, that does not exceed \$2,000 times the number of line items of service.</li><li>6. "Person" means an individual or entity as described under <a href="#">A.R.S. § 1-215</a>.</li><li>7. "Reason to know" or "had reason to know" means that a person, acts in deliberate ignorance of the truth or falsity of, or with reckless disregard of the truth or falsity of information. No proof of specific intent to defraud is required.</li></ol> <p>Historical Note: Adopted effective October 1, 1986 (Supp. 86-5). Amended subsection A. effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective June 9, 1998 (Supp. 98-2). Amended by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).</p> <p>TITLE 13. CRIMINAL CODE<br/>CHAPTER 23. ORGANIZED CRIME, FRAUD AND TERRORISM<br/>A.R.S. § 13-2310</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p><u>Fraudulent schemes and artifices; classification; definition</u><br/><a href="http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/13/02310.htm">http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/13/02310.htm</a></p> <p>A. Any person who, pursuant to a scheme or artifice to defraud, knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions is guilty of a class 2 felony.</p> <p>B. Reliance on the part of any person shall not be a necessary element of the offense described in subsection A of this section.</p> <p>C. A person who is convicted of a violation of this section that involved a benefit with a value of one hundred thousand dollars or more is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except pursuant to section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.</p> <p>D. The state shall apply the aggregation prescribed by section 13-1801, subsection B to violations of this section in determining the applicable punishment.</p> <p>E. As used in this section, "scheme or artifice to defraud" includes a scheme or artifice to deprive a person of the intangible right of honest services.<br/><b>HISTORY:</b> Last year in which legislation affected this section: 1993</p> <p>A.R.S. § 13-2311<br/>Fraudulent schemes and practices; willful concealment; classification<br/><a href="http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/13/02311.htm">http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/13/02311.htm</a></p> <p>A. Notwithstanding any provision of the law to the contrary, in any matter related to the business conducted by any department or agency of this state or any political subdivision thereof, any person who, pursuant to a scheme or artifice to defraud or deceive, knowingly falsifies, conceals or covers up a material fact by any trick, scheme or device or makes or uses any false writing or document knowing such writing or document contains any false, fictitious or fraudulent statement or entry is guilty of a class 5 felony.</p> <p>B. For the purposes of this section, "agency" includes a public agency as defined by section 38-502, paragraph 6.<br/><b>HISTORY:</b> Last year in which legislation affected this section: 1980</p> <p>TITLE 36. PUBLIC HEALTH AND SAFETY<br/>CHAPTER 29. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION<br/>A.R.S. § 36-2957<br/><b>Prohibited acts; penalties</b><br/><i><a href="http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/02957.htm">http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/02957.htm</a></i></p> <p>A. No person may present or cause to be presented to the administration or to a program contractor:</p> <ol style="list-style-type: none"><li>1. A claim for an item or service that the person knows or has reason to know was not provided as claimed.</li><li>2. A claim for an item or service that the person knows or has reason to know is false or fraudulent.</li><li>3. A claim for payment which the person knows or has reason to know may not be made by the system because:<ol style="list-style-type: none"><li>(a) The person was not a member on the date for which the claim is being made.</li><li>(b) The item or service claimed is substantially in excess of the needs of the individual or of a quality that fails to meet professionally recognized standards of care.</li></ol></li><li>4. A claim for a physician's service, or an item or service incidental to a physician's service, by a person who knows or has reason to know that the individual who furnished or supervised the furnishing of the service:<ol style="list-style-type: none"><li>(a) Was not licensed as a physician.</li><li>(b) Obtained a license through a misrepresentation of material fact.</li><li>(c) 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 if the person was not certified.</li></ol></li></ol> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>5. A request for payment which the person knows or has reason to know is in violation of an agreement between the person and the administration or the program contractor.</p> <p>B. A person who violates a provision of subsection A is subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not to exceed two thousand dollars for each item or service claimed and is subject to an assessment of not to exceed twice the amount claimed for each item or service.</p> <p>C. The director or his designee shall make the determination to assess civil penalties and is responsible for the collection of penalty and assessment amounts. The director shall adopt rules that prescribe procedures for the determination and collection of civil penalties and assessments. Civil penalties and assessments imposed under this section may be compromised by the director or his designee in accordance with criteria established in rules. The director or his designee may make a determination in the same proceeding to exclude the person from system participation.</p> <p>D. A person adversely affected by a determination of the director or his designee under this section may appeal that decision in accordance with grievance provisions set forth in rule. The final decision is subject to judicial review in accordance with title 12, chapter 7, article 6.</p> <p>E. Amounts recovered under this section shall be deposited in the Arizona long-term care system fund. The amount of such penalty or assessment may be deducted from any amount then or later owing by the administration to the person against whom the penalty or assessment has been imposed.</p> <p>F. If a civil penalty or assessment imposed pursuant to subsection C is not paid, this state or the administration shall file an action to collect the civil penalty or assessment in the superior court in Maricopa county. Matters that were raised or could have been raised in a hearing before the director or in an appeal pursuant to title 12, chapter 7, article 6 may not be raised as a defense to the civil action. An action brought pursuant to this subsection shall be initiated within six years after the date the claim was presented.</p> <p><b>HISTORY:</b> Last year in which legislation affected this section: 1991</p> <p>TITLE 13. CRIMINAL CODE<br/>CHAPTER 37. MISCELLANEOUS OFFENSES<br/>A.R.S. § 13-3713<br/><b>Consideration for referral of patient, client or customer; fraud; violation; classification</b><br/><i><a href="http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/13/03713.htm">http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/13/03713.htm</a></i></p> <p>A. Except for payments from a medical researcher to A physician licensed pursuant to title 32, chapter 13 or 17 in connection with identifying and monitoring patients for A clinical trial regulated by the United States food and drug administration, a person who knowingly offers, delivers, receives or accepts any rebate, refund, commission, preference or other consideration as compensation for referring a patient, client or customer to any individual, pharmacy, laboratory, clinic or health care institution providing medical or health-related services or items pursuant to title 11, chapter 2, article 7 or title 36, chapter 29, other than specifically provided for in accordance with title 11, chapter 2, article 7 or title 36, chapter 29, is guilty of:</p> <ol style="list-style-type: none"><li>1. A class 3 felony if the consideration had a value of one thousand dollars or more.</li><li>2. A class 4 felony if the consideration had a value of more than one hundred dollars but less than one thousand dollars.</li><li>3. A class 6 felony if the consideration had a value of one hundred dollars or less.</li></ol> <p>B. A person who knowingly presents false information or misrepresents or conceals a material fact on an application for medical or health coverage pursuant to title 36, chapter 29 or <i>section 11-291</i> or who knowingly fails to notify the county of residence of a change in conditions that, if notification had been made, would have resulted in termination of eligibility or change in eligibility status for medical or health coverage pursuant to title 36, chapter 29 or <i>section 11-291</i> is guilty of a class 6 felony.</p> <p>C. A person who knowingly obtains or attempts to obtain medical or health coverage pursuant to title 36, chapter 29 or <i>section 11-291</i> by the use of any means of identification not authorized by the Arizona health care cost containment system administration or by the use of any means of identification authorized by the Arizona health care cost containment system administration that has been or would have been fraudulently acquired is guilty of:</p> |

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|                 | <div>1. A class 5 felony if the value of the medical or health coverage or attempted coverage is one thousand dollars or more.</div> <div>2. A class 6 felony if the value of the medical or health coverage or attempted coverage exceeds one hundred dollars but is less than one thousand dollars.</div> <div>3. A class 1 misdemeanor if the value of the medical or health coverage or attempted coverage is one hundred dollars or less.</div> <div>D. A person who knowingly counterfeits or alters any means of identification or uses, transfers, acquires or possesses counterfeited or altered identification for the purpose of fraudulently obtaining medical or health coverage pursuant to title 36, chapter 29 or <i>section 11-291</i> is guilty of a class 4 felony.</div> <div>E. A person lawfully entitled to medical or health coverage pursuant to title 36, chapter 29 or <i>section 11-291</i> who knowingly furnishes, gives or lends that person's means of identification to any person for the purpose of fraudulently obtaining medical or health coverage pursuant to title 36, chapter 29 or <i>section 11-291</i> is guilty of a class 6 felony.</div> <div>F. A person who knowingly aids or abets another person pursuant to <i>section 13-301, 13-302</i> or <i>13-303</i> in the commission of an offense under this section or <i>section 36-2905.04</i> is guilty of a class 5 felony.</div> <div>G. The county attorney of the county in which the violation occurs and the attorney general have concurrent jurisdiction to prosecute all violations specified in this section.</div> <div>HISTORY: <a href="#">Laws 2004, Ch. 25, § 1.</a></div> <div>A.R.S. § 13-1802</div> <div>Theft; classification</div> <div><a href="http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/13/01802.htm">http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/13/01802.htm</a></div> <div>A.R.S. § 13-1802</div> <div>§ 13-1802. Theft; classification; definitions</div> <div>A. A person commits theft if, without lawful authority, the person knowingly:</div> <div><div>1. Controls property of another with the intent to deprive the other person of such property; or</div><div>2. Converts for an unauthorized term or use services or property of another entrusted to the defendant or placed in the defendant's possession for a limited, authorized term or use; or</div><div>3. Obtains services or property of another by means of any material misrepresentation with intent to deprive the other person of such property or services; or</div><div>4. Comes into control of lost, mislaid or misdelivered property of another under circumstances providing means of inquiry as to the true owner and appropriates such property to the person's own or another's use without reasonable efforts to notify the true owner; or</div><div>5. Controls property of another knowing or having reason to know that the property was stolen; or</div><div>6. Obtains services known to the defendant to be available only for compensation without paying or an agreement to pay the compensation or diverts another's services to the person's own or another's benefit without authority to do so; or</div><div>7. Controls the ferrous metal or nonferrous metal of another with the intent to deprive the other person of the metal; or</div><div>8. Controls the ferrous metal or nonferrous metal of another knowing or having reason to know that the metal was stolen; or</div><div>9. Purchases within the scope of the ordinary course of business the ferrous metal or nonferrous metal of another person knowing that the metal was stolen.</div></div> <div>B. A person commits theft if, without lawful authority, the person knowingly takes control, title, use or management of a vulnerable adult's property while acting in a position of trust and confidence and with the intent to deprive the vulnerable adult of the property. Proof that a person took control, title, use or management of a vulnerable adult's property without adequate consideration to the vulnerable adult may give rise to an inference that the person intended to deprive the vulnerable adult of the property.</div> <div>C. It is an affirmative defense to any prosecution under subsection B of this section that either:</div> <div><div>1. The property was given as a gift consistent with a pattern of gift giving to the person that existed before the adult became vulnerable.</div></div> |

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|                 | <p>2. The property was given as a gift consistent with a pattern of gift giving to a class of individuals that existed before the adult became vulnerable.</p> <p>3. The superior court approved the transaction before the transaction occurred.</p> <p>D. The inferences set forth in <a href="#">section 13-2305</a> apply to any prosecution under subsection A, paragraph 5 of this section.</p> <p>E. At the conclusion of any grand jury proceeding, hearing or trial, the court shall preserve any trade secret that is admitted in evidence or any portion of a transcript that contains information relating to the trade secret pursuant to <a href="#">section 44-405</a>.</p> <p>F. Subsection B of this section does not apply to an agent who is acting within the scope of the agent's duties as or on behalf of a health care institution that is licensed pursuant to title 36, chapter 4 and that provides services to the vulnerable adult.</p> <p>G. Theft of property or services with a value of twenty-five thousand dollars or more is a class 2 felony. Theft of property or services with a value of four thousand dollars or more but less than twenty-five thousand dollars is a class 3 felony. Theft of property or services with a value of three thousand dollars or more but less than four thousand dollars is a class 4 felony, except that theft of any vehicle engine or transmission is a class 4 felony regardless of value. Theft of property or services with a value of two thousand dollars or more but less than three thousand dollars is a class 5 felony. Theft of property or services with a value of one thousand dollars or more but less than two thousand dollars is a class 6 felony. Theft of any property or services valued at less than one thousand dollars is a class 1 misdemeanor, unless the property is taken from the person of another, is a firearm or is an animal taken for the purpose of animal fighting in violation of <a href="#">section 13-2910.01</a>, in which case the theft is a class 6 felony.</p> <p>H. A person who is convicted of a violation of subsection A, paragraph 1 or 3 of this section that involved property with a value of one hundred thousand dollars or more is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except pursuant to <a href="#">section 31-233</a>, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to <a href="#">section 41-1604.07</a> or the sentence is commuted.</p> <p>I. For the purposes of this section, the value of ferrous metal or nonferrous metal includes the amount of any damage to the property of another caused as a result of the theft of the metal.</p> <p>J. In an action for theft of ferrous metal or nonferrous metal:</p> <p>1. Unless satisfactorily explained or acquired in the ordinary course of business by an automotive recycler as defined and licensed pursuant to title 28, chapter 10 or by a scrap metal dealer as defined in <a href="#">section 44-1641</a>, proof of possession of scrap metal that was recently stolen may give rise to an inference that the person in possession of the scrap metal was aware of the risk that it had been stolen or in some way participated in its theft.</p> <p>2. Unless satisfactorily explained or sold in the ordinary course of business by an automotive recycler as defined and licensed pursuant to title 28, chapter 10 or by a scrap metal dealer as defined in <a href="#">section 44-1641</a>, proof of the sale of stolen scrap metal at a price substantially below its fair market value may give rise to an inference that the person selling the scrap metal was aware of the risk that it had been stolen.</p> <p>K. For the purposes of this section:</p> <p>1. "Adequate consideration" means the property was given to the person as payment for bona fide goods or services provided by the person and the payment was at a rate that was customary for similar goods or services in the community that the vulnerable adult resided in at the time of the transaction.</p> <p>2. "Ferrous metal" and "nonferrous metal" have the same meanings prescribed in <a href="#">section 44-1641</a>.</p> <p>3. "Pattern of gift giving" means two or more gifts that are the same or similar in type and monetary value.</p> <p>4. "Position of trust and confidence" has the same meaning prescribed in <a href="#">section 46-456</a>.</p> <p>5. "Property" includes all forms of real property and personal property.</p> <p>6. "Vulnerable adult" has the same meaning prescribed in <a href="#">section 46-451</a>.</p> <p><b>HISTORY:</b> <a href="#">Laws 1998, Ch. 119, § 1</a>; <a href="#">Laws 1998, Ch. 161, § 1</a>; <a href="#">Laws 2000, Ch. 189, § 4</a>; <a href="#">Laws 2004, Ch. 181, § 1</a>; <a href="#">Laws 2006, Ch. 73, § 2</a>; <a href="#">Laws 2006, Ch. 195, § 2</a>; <a href="#">Laws 2009, Ch. 119, § 2</a>; <a href="#">Laws 2009, Ch. 144, § 4</a>; <a href="#">Laws 2009, Ch. 151, § 3</a>; <a href="#">Laws 2012, 2nd Reg. Sess., Ch. 53, § 2</a>; <a href="#">Laws 2013, 1st Reg. Sess., Ch. 163, § 1</a>.</p> <p>A.R.S. § 13-2002</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p><b>Forgery; classification</b><br/><i>http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/13/02002.htm</i></p> <p>A. A person commits forgery if, with intent to defraud, the person:</p> <ol style="list-style-type: none"><li>1. Falsely makes, completes or alters a written instrument; or</li><li>2. Knowingly possesses a forged instrument; or</li><li>3. Offers or presents, whether accepted or not, a forged instrument or one that contains false information.</li></ol> <p>B. The possession of five or more forged instruments may give rise to an inference that the instruments are possessed with an intent to defraud.</p> <p>C. Forgery is a class 4 felony, except that if the forged instrument is used in connection with the purchase, lease or renting of a dwelling that is used as a drop house, it is a class 3 felony. For the purposes of this subsection, "drop house" means property that is used to facilitate smuggling pursuant to <a href="#">section 13-2312</a>.</p> <p><b>HISTORY:</b> <a href="#">Laws 2000, Ch. 182, § 6</a>; <a href="#">Laws 2011, 1st Reg. Sess., Ch. 229, § 1</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p>None.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                 | <p><b>Whistle-blower Protections</b></p> <p>A.R.S. § 36-450 <i>et seq.</i> –<br/><b>Public Health and Safety- Patient Safety Reporting and Nonretaliatory Policies-<br/>Nonretaliatory policy</b><br/><i>http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/00450.htm</i></p> <p>§ 36-450. Definitions</p> <p>In this article, unless the context otherwise requires:</p> <ol style="list-style-type: none"><li>1. "Health professional" has the same meaning prescribed in <i>section 32-3201</i>.</li><li>2. "Professional standards of practice" means practicing within the scope of licensure.</li><li>3. "Retaliatory action" means termination of or other adverse action against a health professional's employment taken by a health care institution because the professional has made a report pursuant to this article.</li></ol> <p><b>HISTORY:</b> <a href="#">Laws 2003, Ch. 174, § 1</a>.</p> <p>A.R.S. § 36-450.01<br/><i>http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/00450-01.htm</i></p> <p><b>Reporting procedures</b></p> <p>A. Each health care institution licensed pursuant to this chapter shall adopt a procedure for reviewing reports made in good faith by a health professional concerning an activity, policy or practice that the health professional reasonably believes both:</p> <ol style="list-style-type: none"><li>1. Violates professional standards of practice or is against the law.</li><li>2. Poses a substantial risk to the health, safety or welfare of a patient.</li></ol> <p>B. The procedure shall include reasonable measures to maintain the confidentiality of the identity of a health professional providing information to a health care institution pursuant to this section.</p> <p><b>HISTORY:</b> <a href="#">Laws 2003, Ch. 174, § 1</a>.</p> |

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|                 | <p>A.R.S. § 36-450.02<br/><a href="http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/00450-02.htm">http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/36/00450-02.htm</a></p> <p><b>Nonretaliatory policy</b></p> <p>A. Each health care institution licensed pursuant to this chapter shall adopt a policy that prohibits retaliatory action against a health professional who in good faith:</p> <ol style="list-style-type: none"><li>1. Makes a report to the health care institution pursuant to the requirements of <a href="#">section 36-450.01</a>.</li><li>2. Having provided the health care institution a reasonable opportunity to address the report, provides information to a private health care accreditation organization or governmental entity concerning the activity, policy or practice that was the subject of the report.</li></ol> <p>B. This section does not prohibit a health care institution licensed pursuant to this chapter from taking action against a health professional for a purpose not related to a report filed pursuant to <a href="#">section 36-450.01</a>.</p> <p>C. Except as provided in <a href="#">section 23-1501</a>, subsection A, paragraph 3, subdivisions (a) and (c), this section shall only be enforced through the provisions of this chapter.</p> <p>D. There shall be a rebuttable presumption that any termination or other adverse action that occurs more than one hundred eighty days after the date of a report made pursuant to either subsection A, paragraph 1 or 2 of this section is not a retaliatory action.</p> <p><b>HISTORY:</b> <a href="#">Laws 2003, Ch. 174, § 1</a>; <a href="#">Laws 2012, 2nd Reg. Sess., Ch. 321, § 82</a>.</p> <p>TITLE 23. LABOR<br/>CHAPTER 9. EMPLOYMENT PROTECTION ACT<br/>ARTICLE 1. GENERAL PROVISIONS<br/>A.R.S. § 23-1501</p> <p>§ 23-1501. Severability of employment relationships; protection from retaliatory discharges; exclusivity of statutory remedies in employment<br/><a href="http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/23/01501.htm">http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/23/01501.htm</a></p> <p>A. The public policy of this state is that:</p> <ol style="list-style-type: none"><li>1. The employment relationship is contractual in nature.</li><li>2. The employment relationship is severable at the pleasure of either the employee or the employer unless both the employee and the employer have signed a written contract to the contrary setting forth that the employment relationship shall remain in effect for a specified duration of time or otherwise expressly restricting the right of either party to terminate the employment relationship. Both the employee and the employer must sign this written contract, or this written contract must be set forth in the employment handbook or manual or any similar document distributed to the employee, if that document expresses the intent that it is a contract of employment, or this written contract must be set forth in a writing signed by the party to be charged. Partial performance of employment shall not be deemed sufficient to eliminate the requirements set forth in this paragraph. Nothing in this paragraph shall be construed to affect the rights of public employees under the Constitution of Arizona and state and local laws of this state or the rights of employees and employers as defined by a collective bargaining agreement.</li><li>3. An employee has a claim against an employer for termination of employment only if one or more of the following circumstances have occurred:<ol style="list-style-type: none"><li>(a) The employer has terminated the employment relationship of an employee in breach of an employment contract, as set forth in paragraph 2 of this subsection, in which case the remedies for the breach are limited to the remedies for a breach of contract.</li></ol></li></ol> |



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|                 | <p>(b) The employer has terminated the employment relationship of an employee in violation of a statute of this state. If the statute provides a remedy to an employee for a violation of the statute, the remedies provided to an employee for a violation of the statute are the exclusive remedies for the violation of the statute or the public policy set forth in or arising out of the statute, including the following:</p> <p>(i) The civil rights act prescribed in title 41, chapter 9.</p> <p>(ii) The occupational safety and health act prescribed in chapter 2, article 10 of this title.</p> <p>(iii) The statutes governing the hours of employment prescribed in chapter 2 of this title.</p> <p>(iv) The agricultural employment relations act prescribed in chapter 8, article 5 of this title.</p> <p>(v) The statutes governing disclosure of information by public employees prescribed in title 38, chapter 3, article 9.</p> <p>All definitions and restrictions contained in the statute also apply to any civil action based on a violation of the public policy arising out of the statute. If the statute does not provide a remedy to an employee for the violation of the statute, the employee shall have the right to bring a tort claim for wrongful termination in violation of the public policy set forth in the statute.</p> <p>(c) The employer has terminated the employment relationship of an employee in retaliation for any of the following:</p> <p>(i) The refusal by the employee to commit an act or omission that would violate the Constitution of Arizona or the statutes of this state.</p> <p>(ii) The disclosure by the employee in a reasonable manner that the employee has information or a reasonable belief that the employer, or an employee of the employer, has violated, is violating or will violate the Constitution of Arizona or the statutes of this state to either the employer or a representative of the employer who the employee reasonably believes is in a managerial or supervisory position and has the authority to investigate the information provided by the employee and to take action to prevent further violations of the Constitution of Arizona or statutes of this state or an employee of a public body or political subdivision of this state or any agency of a public body or political subdivision.</p> <p>(iii) The exercise of rights under the workers' compensation statutes prescribed in chapter 6 of this title.</p> <p>(iv) Service on a jury as protected by <a href="#">section 21-236</a>.</p> <p>(v) The exercise of voting rights as protected by <a href="#">section 16-1012</a>.</p> <p>(vi) The exercise of free choice with respect to nonmembership in a labor organization as protected by <a href="#">section 23-1302</a>.</p> <p>(vii) Service in the national guard or armed forces as protected by <a href="#">sections 26-167</a> and <a href="#">26-168</a>.</p> <p>(viii) The exercise of the right to be free from the extortion of fees or gratuities as a condition of employment as protected by <a href="#">section 23-202</a>.</p> <p>(ix) The exercise of the right to be free from coercion to purchase goods or supplies from any particular person as a condition of employment as protected by <a href="#">section 23-203</a>.</p> <p>(x) The exercise of a victim's right to leave work as provided in <a href="#">sections 8-420</a> and <a href="#">13-4439</a>.</p> <p>B. If the statute provides a remedy to an employee for a violation of the statute, the remedies provided to an employee for a violation of the statute are the exclusive remedies for the violation of the statute or the public policy prescribed in or arising out of the statute.</p> <p><b>HISTORY:</b> <a href="#">Laws 2001, Ch. 334, § 27</a>; <a href="#">Laws 2012, 2nd Reg. Sess., Ch. 321, § 30</a>.</p> <p>A.R.S. § 38-532<br/>TITLE 38. PUBLIC OFFICERS AND EMPLOYEES<br/>CHAPTER 3. CONDUCT OF OFFICE<br/><b>Disclosure of Information by Public Employees</b><br/><i>Prohibited Personnel Practice; Violation; Reinstatement; Exceptions; Civil penalty</i><br/><a href="http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/38/00532.htm">http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/38/00532.htm</a></p> |

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|                 | <p>A. It is a prohibited personnel practice for an employee who has control over personnel actions to take reprisal against an employee for a disclosure of information of a matter of public concern by the employee to a public body that the employee reasonably believes evidences:</p> <ol style="list-style-type: none"><li>1. A violation of any law.</li><li>2. Mismanagement, a gross waste of monies or an abuse of authority.</li></ol> <p>B. The disclosure by an employee to a public body alleging a violation of law, mismanagement, gross waste of monies or abuse of authority shall be in writing and shall contain the following information:</p> <ol style="list-style-type: none"><li>1. The date of the disclosure.</li><li>2. The name of the employee making the disclosure.</li><li>3. The nature of the alleged violation of law, mismanagement, gross waste of monies or abuse of authority.</li><li>4. If possible, the date or range of dates on which the alleged violation of law, mismanagement, gross waste of monies or abuse of authority occurred.</li></ol> <p>C. An employee who knowingly commits a prohibited personnel practice shall be ordered by the state personnel board, a community college district governing board, a school district governing board, a city or town personnel board or any other appropriate independent personnel board established or authorized pursuant to <a href="#">section 38-534</a> to pay a civil penalty of up to five thousand dollars to the state general fund, a county general fund, a community college district unrestricted general fund, a school district maintenance and operation fund or a city or town general fund, whichever is appropriate. The employee who committed the prohibited personnel practice, not the governmental entity, shall pay the civil penalty. On a finding that an employee committed a prohibited personnel practice, the employer shall take appropriate disciplinary action including dismissal, except that on a finding that an employee committed a prohibited personnel practice against an employee who disclosed information that the employee reasonably believed evidenced a violation of any law, the employee who knowingly committed the prohibited personnel practice is subject to a civil penalty of up to ten thousand dollars, the employer shall dismiss the employee and the employee is barred from any future employment by the government entity.</p> <p>D. An employee or former employee against whom a prohibited personnel practice is committed may recover attorney fees, costs, back pay, general and special damages and full reinstatement for any reprisal resulting from the prohibited personnel practice as determined by the court.</p> <p>E. An employee does not commit a prohibited personnel practice if he takes reprisal against an employee if that employee discloses information in a manner prohibited by law or the materials or information are prescribed as confidential by law.</p> <p>F. This section may not be used as a defense in a disciplinary action where the employee is being disciplined for cause pursuant to <a href="#">section 41-773</a>, except in a hearing on a complaint brought pursuant to this section by an employee or former employee who believes he has been the subject of a prohibited personnel practice as prescribed in this section as the result of a disclosure of information.</p> <p>G. On request or at any time an employee alleges reprisal, an employer shall provide an employee who is subject to disciplinary or corrective action, suspension, demotion or dismissal with a copy of this section.</p> <p>H. If an employee or former employee believes that a personnel action taken against him is the result of his disclosure of information under this section, he may make a complaint to an appropriate independent personnel board, if one is established or authorized pursuant to <a href="#">section 38-534</a>, or to a community college district governing board, school district governing board or city or town council. If an independent personnel board has not been established or authorized, or if a school district governing board, a community college district governing board or a city or town council does not hear and decide personnel matters brought pursuant to this section, the employee or former employee may make a complaint to the state personnel board. A complaint made pursuant to this subsection shall be made within ten days of the effective date of the action taken against him. The state personnel board, a school district governing board, a community college district governing board, a city or town council or any other appropriate independent personnel board shall, pursuant to the rules governing appeals under <a href="#">section 41-783</a>, make a determination concerning:</p> <ol style="list-style-type: none"><li>1. The validity of the complaint.</li><li>2. Whether a prohibited personnel practice was committed against the employee or former employee as a result of disclosure of information by the employee or former employee.</li></ol> <p>I. If the state personnel board, a community college district governing board, a school district governing board, a city or town council or any other appropriate independent personnel board established or authorized pursuant to <a href="#">section 38-534</a> determines that a prohibited personnel practice was committed as a result of disclosure of information by the employee or former employee, it shall rescind the personnel action and order that all lost pay and benefits be returned to the employee or former employee. The employee, former employee, employee alleged to have committed a prohibited personnel practice pursuant to subsection A of this section or</p> |

| State /Citation                                                                                                                                           | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                                                                                                                                                           | <p>employer may appeal the decision of the state personnel board, a community college district governing board, a school district governing board, a city or town council or any other appropriate independent personnel board established or authorized pursuant to <a href="#">section 38-534</a> to the superior court as provided in title 12, chapter 7, article 6.</p> <p>J. For purposes of a hearing by the state personnel board, a school district governing board, a community college district governing board, a city or town council or any other appropriate independent personnel board conducted under this section, the employee, former employee, employee alleged to have committed the prohibited personnel practice pursuant to subsection A of this section and employer may be represented by counsel. In addition, representation by counsel in such hearings shall meet any other requirements stipulated by the state personnel board, a school district governing board, a community college district governing board, a city or town council or any other appropriate independent personnel board or as required by law.</p> <p>K. An employee or former employee may also seek injunctive relief as is otherwise available in civil actions. A court may award reasonable attorney fees to an employee or former employee who prevails in an action pursuant to this section, but the award of attorney fees shall not exceed ten thousand dollars.</p> <p>L. This section shall not be construed to limit or extend the civil or criminal liability of an employee or former employee for any disclosure of information or to limit an employee's right to a separate pretermination hearing with the employee's employer, as provided by law.</p> <p>M. An employee who knowingly makes a false accusation that a public officer or employee who has control over personnel actions has engaged in a violation of any law, mismanagement, a gross waste of monies or an abuse of authority is personally subject to a civil penalty of up to twenty-five thousand dollars and dismissal from employment by the employer.</p> <p><b>HISTORY:</b> <a href="#">Laws 2011, 1st Reg. Sess., Ch. 230, § 2</a>; <a href="#">Laws 2012, 2nd Reg. Sess., Ch. 321, § 91</a>.</p> |
| <p><a href="#">Arkansas</a><br/>A.C.A. § 20-77-1702 - 1718</p> <p><b>A.C.A. § 5-37-217</b></p> <p>A.C.A. § 5-55-102 et seq.</p> <p>A.C.A. § 20-77-901</p> | <div><div><b>Criminal and Civil Penalties for False Claims and Statements</b></div><div><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b><br/>Arkansas Office of Medicaid Inspector General – Information About Fraud Prevention &amp; Reporting @ <a href="https://omig.arkansas.gov/what-is-fraud">https://omig.arkansas.gov/what-is-fraud</a><br/><a href="https://omig.arkansas.gov/medicaid-laws/">https://omig.arkansas.gov/medicaid-laws/</a><br/><b>State Bulletin/Notice - Section 6032 of the Deficit Reduction Act of 2005 – Education About False Claims Recovery</b><br/><a href="http://omig.arkansas.gov/medicaid-laws">http://omig.arkansas.gov/medicaid-laws</a><br/><a href="https://static.ark.org/ceuploads/omig/FalseClaimsActPolicyMemo.pdf">https://static.ark.org/ceuploads/omig/FalseClaimsActPolicyMemo.pdf</a></div></div> <p>A.C.A. § 20-77-1702 - 1718</p> <p><b>Medicaid Fairness Act</b></p> <p><a href="https://ig.arkansas.gov/medicaid-inspector-general/medicaid-laws/">https://ig.arkansas.gov/medicaid-inspector-general/medicaid-laws/</a></p> <p><a href="#">Arkansas Code Annotated</a><br/><a href="#">Title 5 Criminal Offenses</a><br/><a href="#">Subtitle 4. Offenses Against Property</a><br/><a href="#">Chapter 37 Forgery and Fraudulent Practices</a><br/><a href="#">Subchapter 2-- Offenses Generally</a></p> <p><b>A.C.A. § 5-37-217 - Healthcare fraud.</b></p> <p>(a) As used in this section, "healthcare plan" means a publicly or privately funded program or organization that is formed to provide or pay for healthcare goods or services, including without limitation:</p> <p>(1) Health insurance plans;</p> <p>(2) Managed care organization plans;</p> <p>(3) Risk-based provider plans;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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|                 | <div><div><div><div><div>(4) The Arkansas Medicaid Program;</div><div>(5) The Social Security Disability Insurance program; and</div><div>(6) The Medicare program.</div></div></div><div><div>(b) A person commits healthcare fraud if, with a purpose to defraud a healthcare plan, the person provides materially false information or omits material information in support of:</div><div><div><div>(1) An application for membership or eligibility for a healthcare plan;</div><div>(2) A claim for payment or reimbursement as a member or provider in a healthcare plan; or</div><div>(3) A prior claim for payment or to justify payments previously received from a healthcare plan for healthcare goods or services during the course of an audit or investigation conducted by the Office of Medicaid Inspector General or a healthcare oversight agency with jurisdiction to audit, investigate, or prosecute any form of healthcare fraud.</div></div></div><div><div>(c) Healthcare fraud is a:</div><div><div><div>(1) Class A misdemeanor if the aggregate amount of the healthcare fraud in any period of twelve (12) months is less than two thousand five hundred dollars (\$2,500);</div><div>(2) Class C felony if the aggregate amount of the healthcare fraud in any period of twelve (12) months is two thousand five hundred dollars (\$2,500) or more but less than five thousand dollars (\$5,000);</div><div>(3) Class B felony if the aggregate amount of the healthcare fraud in any period of twelve (12) months is five thousand dollars (\$5,000) or more but less than twenty-five thousand dollars (\$25,000); and</div><div>(4) Class A felony if the aggregate amount of the healthcare fraud in any period of twelve (12) months is twenty-five thousand dollars (\$25,000) or more.</div></div></div></div></div><div><div>History: <a href="#">Acts 2013, No. 1499, § 1</a>; <a href="#">2017, No. 978, § 1</a>.</div><hr/></div><div><div>Arkansas Medicaid Fraud Act (“AMFA”) - A.C.A. § 5-55-102</div><div>5-55-101. Title.</div><div>This subchapter shall be known and may be cited as the "<b>Medicaid Fraud Act</b>".</div><div>A.C.A. § 5-55-102</div><div>5-55-102. Definitions.</div><div>As used in this subchapter:</div><div><div><div>(1) "Arkansas Medicaid Program" means the program authorized under Title XIX of the Social Security Act, <a href="#">42 U.S.C. § 1396</a> et seq., that provides for payments for medical goods or services on behalf of indigent families with dependent children and of aged, blind, or disabled individuals whose income and resources are insufficient to meet the cost of necessary medical services, including all transactions through the actual delivery of healthcare goods or services to a Medicaid recipient regardless of whether the healthcare goods or services are paid for directly by the Department of Human Services or indirectly through a fiscal agent, contractor, subcontractor, risk-based provider organization, managed care organization, or individual;</div><div>(2) "Claim" means any written or electronically submitted request or demand for reimbursement or payment made by any Medicaid provider or its fiscal agents for each good or service purported to have been provided to any Medicaid recipient whether or not the State of Arkansas provides any portion of the money that is requested or demanded;</div><div>(3) "Fiscal agent" means any individual, firm, corporation, professional association, partnership, organization, risk-based provider organization, managed care organization, or other legal entity that receives, processes, or pays claims for the delivery of healthcare goods or services to Medicaid recipients under the Arkansas Medicaid Program;</div><div>(4) "Managed care organization" means a health insurer, Medicaid provider, or other business entity authorized by state law or through a contract with the state to receive a fixed or capitated rate or fee to manage all or a portion of the delivery of healthcare goods or services to Medicaid recipients;</div><div>(5)<div><div>(A) "Medicaid provider" means a person, business organization, risk-based provider organization, or managed care organization that delivers, purports to deliver, or arranges for the delivery of healthcare goods or services to a Medicaid recipient under the Arkansas Medicaid Program.</div><div>(B) "Medicaid provider" includes an employee, agent, representative, contractor, or subcontractor of a person, business organization, risk-based provider organization, or managed care organization;</div></div></div><div>(6) "Medicaid recipient" means any individual in whose behalf any person claimed or received any payment from the Arkansas Medicaid Program or its fiscal agents, whether or not the individual was eligible for benefits under the Arkansas Medicaid Program;</div><div>(7) "Person" means any:</div></div></div></div></div><div data-bbox="96 1424 327 1456" data-label="Page-Footer"><p>Updated – July 2023</p></div><div data-bbox="2112 1421 2303 1456" data-label="Page-Footer"><p>Page 62 of 524</p></div></div> |

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|                 | <p>(A) Medicaid provider of goods or services under the Arkansas Medicaid Program or any employee of the Medicaid provider, independent contractor of the Medicaid provider, contractor of the Medicaid provider, or subcontractor of the Medicaid provider, whether the Medicaid provider be an individual, individual medical vendor, firm, corporation, professional association, partnership, organization, risk-based provider organization, managed care organization, or other legal entity; or</p> <p>(B) Individual, individual medical vendor, firm, corporation, professional association, partnership, organization, risk-based provider organization, managed care organization, or other legal entity, or any employee of any individual, individual medical vendor, firm, corporation, professional association, partnership, organization, risk-based provider organization, managed care organization, or other legal entity, not a Medicaid provider under the Arkansas Medicaid Program but that provides goods or services to a Medicaid provider under the Arkansas Medicaid Program for which the Medicaid provider submits claims to the Arkansas Medicaid Program or its fiscal agents; and</p> <p>(8)</p> <p>(A) "Records" means all documents that disclose the nature, extent, and level of healthcare goods and services provided to Medicaid recipients.</p> <p>(B) "Records" include x-rays, magnetic resonance imaging scans, computed tomography scans, computed axial tomography scans, and other diagnostic imaging commonly used and retained as part of the medical records of a patient.</p> <p>History - Acts 1979, No. 823, § 2; A.S.A. 1947, § 41-4402; <a href="#">Acts 1993, No. 1291, §§ 1, 8</a>; <a href="#">2017, No. 978, § 2</a>.</p> <p>~~~~~</p> <p><i>A.C.A. § 5-55-103</i></p> <p><b>5-55-103. Unlawful acts -- Classification.</b></p> <p>(1) It is unlawful for any person to commit Medicaid fraud as prohibited by <a href="#">§ 5-55-111</a>.</p> <p>(2) Medicaid fraud is a:</p> <p>(A) Class C felony if the aggregate amount of payments illegally claimed is two thousand five hundred dollars (\$2,500) or more but less than five thousand dollars (\$5,000);</p> <p>(B) Class B felony if the aggregate amount of payments illegally claimed is five thousand dollars (\$5,000) or more but less than twenty-five thousand dollars (\$25,000); and</p> <p>(C) Class A felony if the aggregate amount of payments illegally claimed is twenty-five thousand dollars (\$25,000) or more.</p> <p>(3) Otherwise, Medicaid fraud is a Class A misdemeanor.</p> <p>(b) (1) A person commits illegal Medicaid participation if:</p> <p>(A) Having been found guilty of or having pleaded guilty or nolo contendere to the charge of Medicaid fraud, theft of public benefits, <a href="#">§ 5-36-202</a>, or abuse of adults, <a href="#">§ 5-28-101</a> et seq., as defined in the Arkansas Criminal Code, <a href="#">§ 5-1-101</a> et seq., that person participates directly or indirectly in the Arkansas Medicaid Program; or</p> <p>(B) As a certified health provider, enrolled in the Arkansas Medicaid Program pursuant to Title XIX of the Social Security Act, as amended, <a href="#">42 U.S.C. § 1396</a> et seq., or the fiscal agent of the certified health provider, employs, or engages as an independent contractor, or engages as a consultant, or otherwise permits the participation in the business activities of the certified health provider, any person who has pleaded guilty or nolo contendere to or has been found guilty of a charge of Medicaid fraud, theft of public benefits, <a href="#">§ 5-36-202</a>, or abuse of adults, <a href="#">§ 5-28-101</a> et seq., as defined in the Arkansas Criminal Code, <a href="#">§ 5-1-101</a> et seq.</p> <p>(2) Illegal Medicaid participation is a:</p> <p>(A) Class A misdemeanor for the first offense;</p> <p>(B) Class D felony for the second offense; and</p> <p>(C) Class C felony for the third offense and subsequent offenses.</p> <p>History - Acts 1979, No. 823, § 3; A.S.A. 1947, § 41-4403; <a href="#">Acts 1993, No. 1291, § 2</a>; <a href="#">2003, No. 1122, § 1</a>; <a href="#">2007, No. 827, § 49</a>; <a href="#">2017, No. 978, § 3</a>.</p> <p>~~~~~</p> <p><i>A.C.A. § 5-55-104</i></p> <p><b>5-55-104. Records.</b></p> |

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|                 | <p>(a) No potential Medicaid recipient is eligible for medical assistance unless he or she has authorized in writing the Director of the Department of Human Services to examine all records of the potential Medicaid recipient's own, or of those receiving or having received Medicaid benefits through him or her, whether or not the receipt of the benefits would be allowed by the Arkansas Medicaid Program, for the purpose of investigating whether any person may have committed the crime of Medicaid fraud or for use or potential use in any legal, administrative, or judicial proceeding.</p> <p>(b) No person is eligible to receive any payment from the Arkansas Medicaid Program or its fiscal agents unless the person has authorized in writing the director to examine all records for the purpose of investigating whether any person may have committed the crime of Medicaid fraud or for use or for potential use in any legal, administrative, or judicial proceeding.</p> <p>(c) The Attorney General and the prosecuting attorneys are allowed access to all records of persons and Medicaid recipients under the Arkansas Medicaid Program to which the director has access for the purpose of investigating whether any person may have committed the crime of Medicaid fraud or for use or potential use in any legal, administrative, or judicial proceeding.</p> <p>(d) Notwithstanding any other law to the contrary, no person is subject to any civil or criminal liability for providing access to records to the director, the Attorney General, or the prosecuting attorneys.</p> <p>(e) Records obtained by the director, the Attorney General, or the prosecuting attorneys pursuant to this subchapter are classified as confidential information and are not subject to outside review or release by any individual except when records are used or potentially to be used by any government entity in any legal, administrative, or judicial proceeding.</p> <p>(f)</p> <p style="padding-left: 40px;">(1) A Medicaid provider or person providing healthcare goods or services under the Arkansas Medicaid Program is required to maintain all records at least for a period of five (5) years from the date of claimed provision of any goods or services to any Medicaid recipient.</p> <p style="padding-left: 40px;">(2)</p> <p style="padding-left: 80px;">(A) The records described in subdivision (f)(1) of this section shall be available for audit during regular business hours at the address listed in the Medicaid provider agreement or where the healthcare goods or services are provided.</p> <p style="padding-left: 80px;">(B) Closed records for inactive patients or clients may be maintained in offsite storage if:</p> <p style="padding-left: 120px;">(i) The records can be produced within three (3) working days of being served with a request for records, subpoena, or other lawful notice from any agency with authority to audit the records; and</p> <p style="padding-left: 120px;">(ii) The records are maintained within the state.</p> <p style="padding-left: 80px;">(C) A Medicaid provider shall disclose upon request the location of any offsite storage facility to any agency with authority to audit the records.</p> <p>(3) If the healthcare goods or services are provided in the home of the Medicaid recipient, the records shall be maintained at the principal place of business of the Medicaid provider.</p> <p>(4) If a Medicaid provider goes out of business, the Medicaid provider shall give written notification to the Department of Human Services and the Office of Medicaid Inspector General of where and how the records will be stored.</p> <p>(g)</p> <p style="padding-left: 40px;">(1) It is unlawful to destroy or alter any record or supporting documentation with a purpose to conceal a false or fraudulent claim made to the Arkansas Medicaid Program or to interfere with an audit, investigation, or prosecution related to a claim made to the Arkansas Medicaid Program.</p> <p style="padding-left: 40px;">(2) A violation of subdivision (g)(1) of this section is a Class B felony.</p> <p>(h)</p> <p style="padding-left: 40px;">(1) Any person found not to have maintained any records upon conviction is guilty of a Class D felony if the unavailability of records impairs or obstructs the prosecution of a felony.</p> <p style="padding-left: 40px;">(2) Otherwise, a violation of subdivision (h)(1) of this section is a Class A misdemeanor.</p> <p>(i) It is an affirmative defense to a prosecution under this section that the records in question were lost or destroyed in a flood, fire, or other natural disaster or by a criminal act that did not result from the defendant's conduct.</p> <p>History - Acts 1979, No. 823, § 10; A.S.A. 1947, § 41-4410; <a href="#"><i>Acts 1993, No. 1291, §§ 3, 7</i></a>; <a href="#"><i>2017, No. 278, § 4</i></a>.</p> <p style="text-align: center;">~~~~~</p> <p><i>A.C.A. § 5-55-105</i></p> <p><b>5-55-105. Liability of organizations.</b></p> <p>In naming a person as a defendant under this subchapter, it is expressly intended that all of the provisions of §§ 5-2-501 -- 5-2-503 apply.</p> <p><b>HISTORY:</b> Acts 1979, No. 823, § 5; A.S.A. 1947, § 41-4405.</p> <p style="text-align: center;">~~~~~</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p><i>A.C.A. § 5-55-106</i></p> <p><b>5-55-106. Investigation by Attorney General.</b></p> <p>The office of the Attorney General is the entity to which a case of suspected medicaid fraud shall be referred by the Arkansas Medicaid Program or its fiscal agents for the purposes of investigation, civil action, or referral to the prosecuting attorney having criminal jurisdiction in the matter.</p> <p><b>HISTORY:</b> Acts 1979, No. 823, § 9; A.S.A. 1947, § 41-4409; Acts 1995, No. 894, § 2.</p> <p>~~~~~</p> <p><i>A.C.A. § 5-55-107</i></p> <p><b>5-55-107. Restitution and collection.</b></p> <hr/> <p>(a) In addition to any other fine that may be levied, any person found guilty of or who pleads guilty or nolo contendere to Medicaid fraud as described in this subchapter is required to make full restitution to:</p> <p>(1) The Department of Human Services, with the restitution to be deposited into the Arkansas Medicaid Program Trust Fund for the loss to the Arkansas Medicaid Program or its fiscal agents; and</p> <p>(2) The office of the Attorney General or prosecuting attorney for reasonable and necessary expenses incurred during investigation and prosecution.</p> <p>(b) (1) Upon a conviction of Medicaid fraud, the sentencing authority shall make a finding regarding the amount of restitution that a defendant shall pay, including without limitation:</p> <p>(A) The full amount of the monetary loss to the Arkansas Medicaid Program and its fiscal agents;</p> <p>(B) The amount of reasonable and necessary expenses incurred by the office of the Attorney General or the prosecuting attorney during the investigation and prosecution; and</p> <p>(C) Any other measurable monetary damages directly related to the Medicaid fraud.</p> <p>(2) Except as provided in subdivision (b)(1) of this section, the sentencing authority shall follow the procedures for determination of the restitution amount under <a href="#">§ 5-4-205</a>.</p> <p>(c)</p> <p>(1) In addition to the judgment and commitment order in a criminal case, a court shall enter a separate restitution order against the defendant convicted of Medicaid fraud regarding restitution consistent with this section and <a href="#">§ 5-55-108</a>.</p> <p>(2) The restitution order is a judgment against the defendant and has the same effect as any other civil judgment recorded in the state.</p> <p>(3) The restitution order shall:</p> <p>(A) Require the defendant to:</p> <p>(i) Comply with <a href="#">§ 16-66-221</a> by filing a schedule of property; and</p> <p>(ii) Update the schedule of property on an annual basis until the restitution is paid in full; and</p> <p>(B) State that:</p> <p>(i) Interest shall accrue on the amount of the restitution from the date of the restitution order under <a href="#">§ 16-65-114</a>; and</p> <p>(ii) Restitution may be collected through an interception of the defendant's state income tax return under <a href="#">§ 5-4-206</a> if the defendant fails to comply with the terms and conditions of the restitution order.</p> <p>(d) (1) (A) The Attorney General may use all available civil remedies under state law to collect on a restitution order under this section.</p> <p>(B) Civil efforts to collect restitution may proceed jointly with criminal efforts to collect restitution.</p> <p>(C) This subsection does not limit the contempt power of the court or prevent a court from revoking the probation or suspended sentence of a defendant who has willfully failed to pay restitution ordered under this section.</p> <p>(2)</p> <p>(A) The Attorney General shall provide a full accounting of any restitution collected using civil remedies to the court.</p> <p>(B) A defendant shall not be required to pay restitution more than one (1) time.</p> <p>(3)</p> <p>(A) Restitution ordered for a loss to the Arkansas Medicaid Program shall not be excused by the court.</p> <p>(B) A conviction under this subchapter shall not be sealed or expunged until all ordered restitution is paid in full.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                 | <p>(e)</p> <p>(1) Restitution ordered for losses to the Arkansas Medicaid Program shall be paid to the Arkansas Medicaid Program Trust Fund and used by the Department of Human Services as required by state law.</p> <p>(2) Restitution ordered for reasonable and necessary expenses incurred by the office of the Attorney General or the prosecuting attorney during investigation and prosecution shall be paid to the office of the Attorney General or the prosecuting attorney to be retained and used in future investigations for Medicaid fraud.</p> <p><i>History - Acts 1979, No. 823, § 4; A.S.A. 1947, § 41-4404; <a href="#">Acts 1993, No. 1291, § 4</a>; <a href="#">2017, No. 978, § 5</a>.</i></p> <hr/> <p>~~~~~</p> <p><i>A.C.A. § 5-55-108</i></p> <p><b>5-55-108. Fines.</b></p> <p>(a) Any person who is found guilty of or who pleads guilty or nolo contendere to Medicaid fraud as described in this subchapter shall pay one (1) of the following fines:</p> <p>(1) If no monetary loss is incurred by the Arkansas Medicaid Program, a fine of not less than one thousand dollars (\$1,000) or more than three thousand dollars (\$3,000) for each omission or fraudulent act or claim; or</p> <p>(2) If a monetary loss is incurred by the Arkansas Medicaid Program, a fine of an amount not less than the amount of the monetary loss to the Arkansas Medicaid Program and not more than three (3) times the amount of the monetary loss to the Arkansas Medicaid Program.</p> <p>(b)</p> <p>(1) The fines described in subdivision (a)(2) of this section may be waived by the prosecuting attorney.</p> <p>(2) If the fines are waived, the trier of fact may impose fines under <a href="#">§ 5-4-201</a>.</p> <p>(c) All fines assessed under subsection (a) of this section shall be credited to the general revenues of the State of Arkansas.</p> <p>History - Acts 1979, No. 823, § 6; A.S.A. 1947, § 41-4406; <a href="#">Acts 2017, No. 978, § 5</a>.</p> <p>~~~~~</p> <p><i>A.C.A. § 5-55-109</i></p> <p><b>5-55-109. Criminal penalties and civil penalties mutually exclusive.</b></p> <p>Section 5-55-107, which provides for additional criminal fines, and the Medicaid Fraud False Claims Act, § 20-77-901 et seq., which provides for civil penalties, shall not both be applied to the same payment received or claim made by any person under the Arkansas Medicaid Program or its fiscal agents.</p> <p><b>HISTORY:</b> Acts 1993, No. 1291, § 6.</p> <p>~~~~~</p> <p><i>A.C.A. § 5-55-110</i></p> <p><b>5-55-110. Suspension of violators.</b></p> <p>The Director of the Department of Health and Human Services may suspend or revoke the provider agreement between the Department of Health and Human Services and a person in the event the person is found guilty of violating a provision of this subchapter.</p> <p><b>HISTORY:</b> Acts 1979, No. 823, § 8; A.S.A. 1947, § 41-4408; Acts 1993, No. 1291, § 5.</p> <p>~~~~~</p> <p><i>A.C.A. § 5-55-111</i></p> <p><b>5-55-111. Criminal acts constituting medicaid fraud.</b></p> <p>A person commits Medicaid fraud when he or she:</p> <p>(1) Purposely makes or causes to be made any omission or false statement or representation of a material fact in any claim, request for payment, or application for any benefit or payment under the Arkansas Medicaid Program;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(2) At any time purposely makes or causes to be made any omission or false statement or representation of a material fact for use in determining rights to a benefit or payment under the Arkansas Medicaid Program;</p> <p>(3) Having knowledge of the occurrence of any event affecting his or her initial or continued right to any benefit or payment under the Arkansas Medicaid Program, or the initial or continued right to any benefit or payment under the Arkansas Medicaid Program of any other individual in whose behalf he or she has applied for or is receiving the benefit or payment under the Arkansas Medicaid Program, purposely conceals or fails to disclose the event with an intent fraudulently to secure the benefit or payment under the Arkansas Medicaid Program either in a greater amount or quantity than is due or when no benefit or payment under the Arkansas Medicaid Program is authorized;</p> <p>(4) Having made or submitted a claim, request for payment, or application to receive any benefit or payment under the Arkansas Medicaid Program for the use and benefit of another person and having received it, purposely converts the benefit or payment under the Arkansas Medicaid Program or any part of the benefit or payment under the Arkansas Medicaid Program to a use other than for the use and benefit of the other person;</p> <p>(5) Purposely presents or causes to be presented a claim for a physician's service for which payment may be made under a program under the Arkansas Medicaid Program while knowing that the individual who furnished the service was not licensed as a physician;</p> <p>(6) Purposely solicits or receives any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind:</p> <p style="padding-left: 40px;">(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 the Arkansas Medicaid Program; or</p> <p style="padding-left: 40px;">(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 the Arkansas Medicaid Program;</p> <p>(7) (A) Purposely 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 that person to:</p> <p style="padding-left: 40px;">(i) 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 the Arkansas Medicaid Program; or</p> <p style="padding-left: 40px;">(ii) 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 the Arkansas Medicaid Program.</p> <p style="padding-left: 40px;">(B) Subdivisions (7)(A)(i) and (ii) of this section do not apply to:</p> <p style="padding-left: 80px;">(i) A discount or other reduction in price obtained by a provider of services or other entity under the Arkansas Medicaid 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 the Arkansas Medicaid Program;</p> <p style="padding-left: 80px;">(ii) Any amount paid by an employer to an employee who has a bona fide employment relationship with the employer for employment in the provision of covered items or services;</p> <p style="padding-left: 80px;">(iii) 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 the Arkansas Medicaid Program if:</p> <p style="padding-left: 120px;">(a) The person has a written contract with each individual or entity that specifies the amount to be paid to the person and the amount may be a fixed amount or a fixed percentage of the value of the purchases made by each individual or entity under the contract; and</p> <p style="padding-left: 120px;">(b) In the case of an entity that is a provider of services as defined in <a href="#">§ 20-9-101</a>, the person discloses in such form and manner as the Director of the Department of Human Services requires to the entity and, upon request, to the director, the amount received from each vendor with respect to purchases made by or on behalf of the entity; or</p> <p style="padding-left: 80px;">(iv) Any payment practice specified by the director promulgated pursuant to applicable federal or state law;</p> <p>(8) Purposely makes or causes to be made, or induces or seeks to induce, any omission or false statement or representation of a material fact with respect to the conditions or operation of any institution, facility, or Medicaid provider in order that the institution, facility, or Medicaid provider may qualify to obtain or maintain any licensure or certification when the licensure or certification is required to be enrolled or eligible to deliver any healthcare goods or services to Medicaid recipients by state law, federal law, or the rules of the Arkansas Medicaid Program;</p> <p>(9) Purposely:</p> <p style="padding-left: 40px;">(A) Charges, for any service provided to a patient under the Arkansas Medicaid Program, money or other consideration at a rate in excess of the rates established by the state; or</p> <p style="padding-left: 40px;">(B) Charges, solicits, accepts, or receives, in addition to any amount otherwise required to be paid under the Arkansas Medicaid Program, 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:</p> <p style="padding-left: 80px;">(i) As a precondition of admitting a patient to a hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities; or</p> <p style="padding-left: 80px;">(ii) As a requirement for the patient's continued stay in a hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities when the cost of the services provided in the hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities to the patient is paid for in whole or in part under the Arkansas Medicaid Program;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>(10) Purposely makes or causes to be made any false statement or representation of a material fact in any application for a benefit or payment in violation of the rules, regulations, and provider agreements issued by the Arkansas Medicaid Program or its fiscal agents;</p> <p>(11) Knowingly submits false documentation or makes or causes to be made or induces or seeks to induce any material false statement to the Office of Medicaid Inspector General or the Medicaid Fraud Control Unit within the office of the Attorney General during an audit or in response to a request for information or a subpoena;</p> <p>(12) Purposely forges the signature of a doctor, nurse, or other medical professional on a prescription, referral for healthcare goods or services, or finding of medical necessity;</p> <p>(13) Knowingly submits a forged prescription, referral for healthcare goods or services, or finding of medical necessity for:</p> <p>    (A) Payment under the Arkansas Medicaid Program; or</p> <p>    (B) An audit or in response to a request for information or a subpoena to the Office of Medicaid Inspector General or the Medicaid Fraud Control Unit within the office of the Attorney General; or</p> <p>(14) Purposely places a false entry in a medical chart, medical record, or any record of services required to be made to the Arkansas Medicaid Program that indicates that healthcare goods or services have been provided to a Medicaid recipient knowing that the healthcare goods or services were not provided.</p> <p>History - <a href="#">Acts 1993, No. 1291, § 6</a>; <a href="#">2017, No. 278, § 6</a>.</p> <p>~~~~~</p> <p><i>A.C.A. § 5-55-114</i><br/><b>5-55-114. Special deputy prosecutor.</b></p> <hr/> <p>(a) A prosecuting attorney having jurisdiction over an offense may designate an attorney employed by the office of the Attorney General as a special deputy prosecutor to prosecute any charges related to healthcare fraud or any other charges that may arise from the same factual allegations or may be properly joined under state law.</p> <p>(b)</p> <p>    (1) As a special deputy prosecutor, the attorney may issue a subpoena and may administer an oath as provided in <a href="#">§ 25-16-705</a>.</p> <p>    (2) The subpoena shall be substantially in the form set forth in <a href="#">§ 25-16-705(b)</a>.</p> <p>(c) A special deputy prosecutor appointed and functioning as authorized under this section is entitled to the same immunity granted by law to the prosecuting attorney.</p> <p>(d)</p> <p>    (1) Appointment as a special deputy prosecutor does not enable the attorney to receive any additional fees or salary from the state for services provided pursuant to the appointment.</p> <p>    (2) Expenses of the special deputy prosecutor and any fees and costs incurred by the special deputy prosecutor in the prosecution of cases as provided in this section are the responsibility of the Attorney General.</p> <p>(e) The prosecuting attorney may revoke the appointment of a special deputy prosecutor at any time.</p> <p>History - <a href="#">Acts 1995, No. 894, § 2</a>; <a href="#">2017, No. 278, § 8</a>.</p> <p>~~~~~</p> <p><b>Medicaid Fraud False Claims Act</b><br/>A.C.A. § 20-77-901<br/><b>20-77-901. Definitions.</b></p> <p>As used in this subchapter:</p> <p>(1) "Arkansas Medicaid Program" means the program authorized under Title XIX of the Social Security Act, <a href="#">42 U.S.C. § 1396</a> et seq., that provides for payments for medical goods or services on behalf of indigent families with dependent children and of aged, blind, or disabled individuals whose income and resources are insufficient to meet the cost of necessary medical services, including all transactions through the actual delivery of healthcare goods or services to a Medicaid recipient regardless of whether the healthcare goods or services are paid for directly by the Department of Human Services or indirectly through a fiscal agent, contractor, subcontractor, risk-based provider organization, managed care organization, or individual;</p> <p>(2) (A) "Claim" means any request or demand for money or property, regardless of whether under a contract, that:</p> <p>    (i) Is presented to an officer, employee, agent, or fiscal agent of the Arkansas Medicaid Program; and</p> <p>    (ii) Is made to a contractor, grantee, or other recipient if:</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(a) The money or property is spent or used on behalf of the Arkansas Medicaid Program or to advance the Arkansas Medicaid Program or its interest; and</p> <p>(b) The Arkansas Medicaid Program:</p> <p>(1) Provides or has provided any portion of the money or property requested or demanded; or</p> <p>(2) Is reimbursing the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.</p> <p>(B) "Claim" includes:</p> <p>(i) Billing documentation;</p> <p>(ii) All documentation required to be created or maintained by law or rule to justify, support, or document the delivery of healthcare goods or services to a Medicaid recipient;</p> <p>(iii) All documentation submitted to justify or help establish a unit rate, capitated rate, or other method of determining what is to be paid for healthcare goods or services delivered to Medicaid recipients; and</p> <p>(iv) All transactions in payment for healthcare goods or services delivered or claimed to have been delivered to Medicaid recipients under the Arkansas Medicaid Program regardless of whether the State of Arkansas has title to the money or property or has transferred responsibility for delivering healthcare services to another legal entity;</p> <p>(3) "Damages" means the actual loss to the Arkansas Medicaid Program and its fiscal agents, including the total amount of all claims paid as a result of any false claim and the value of healthcare goods or services paid for but not delivered to a Medicaid recipient;</p> <p>(4) "Fiscal agent" means any individual, firm, corporation, professional association, partnership, organization, risk-based provider organization, managed care organization, or other legal entity that receives, processes, or pays claims for the delivery of healthcare goods and services to Medicaid recipients under the Arkansas Medicaid Program;</p> <p>(5)</p> <p>(A) "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.</p> <p>(B) "Knowing" or "knowingly" does not require proof of a specific intent to defraud;</p> <p>(6) "Managed care organization" means a health insurer, Medicaid provider, or other business entity authorized by state law or through a contract with the state to receive a fixed or capitated rate or fee to manage all or a portion of the delivery of healthcare goods or services to Medicaid recipients;</p> <p>(7) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property;</p> <p>(8)</p> <p>(A) "Medicaid provider" means a person, business organization, risk-based provider organization, or managed care organization that delivers, purports to deliver, or arranges for the delivery of healthcare goods or services to a Medicaid recipient under the Arkansas Medicaid Program.</p> <p>(B) "Medicaid provider" includes an employee, agent, representative, contractor, or subcontractor of a person, business organization, risk-based provider organization, or managed care organization;</p> <p>(9) "Medicaid recipient" means any individual on whose behalf any person claimed or received any payment or payments from the Arkansas Medicaid Program or its fiscal agents, whether or not the individual was eligible for benefits under the Arkansas Medicaid Program;</p> <p>(10) "Obligation" means an established duty arising from:</p> <p>(A) An express or implied contract, grantor-grantee, or licensor-licensee relationship;</p> <p>(B) A fee-based or similar relationship;</p> <p>(C) State law or rule;</p> <p>(D) Federal law or regulation; or</p> <p>(E) Retention of any overpayment not returned within sixty (60) days from the date of discovery by the provider;</p> <p>(11) "Person" means any:</p> <p>(A) Medicaid provider of goods or services or any employee, independent contractor, or subcontractor of the Medicaid provider, whether that provider be an individual, individual medical vendor, firm, corporation, professional association, partnership, organization, risk-based provider organization, managed care organization, or other legal entity; or</p> <p>(B) Individual, individual medical vendor, firm, corporation, professional association, partnership, organization, risk-based provider organization, managed care organization, or other legal entity, or any employee of any individual, individual medical vendor, firm, corporation, professional association, partnership, organization, risk-based provider organization, managed care organization, or other legal entity, not a Medicaid provider under the Arkansas Medicaid Program but that provides goods or services to a Medicaid provider under the Arkansas Medicaid Program for which the Medicaid provider submits claims to the Arkansas Medicaid Program or its fiscal agents; and</p> <p>(12)</p> <p>(A) "Records" means all documents in any form that disclose the nature, extent, and level of healthcare goods and services provided to Medicaid recipients.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(B) "Records" includes x-rays, magnetic resonance imaging scans, computed tomography scans, computed axial tomography scans, and other diagnostic imaging commonly used and retained as part of the medical records of a patient.</p> <p>History - <a href="#"><i>Acts 1993, No. 1299, § 1; 1999, No. 1544, § 6; 2003, No. 1473, § 46; 2017, No. 978, § 9.</i></a><br/>~~~~~</p> <p>A.C.A. § 20-77-902</p> <p><b>20-77-902. Liability for certain acts.</b></p> <p>A person shall be liable to the State of Arkansas, through the Attorney General, for a civil penalty of three (3) times the amount of the damages if he or she:</p> <p>(1) Knowingly makes or causes to be made any false statement or representation of a material fact in any claim, request for payment, or application for any benefit or payment under the Arkansas Medicaid Program;</p> <p>(2) Knowingly makes or causes to be made any omission or false statement or representation of a material fact for use in determining rights to a benefit or payment under the Arkansas Medicaid Program;</p> <p>(3) Having knowledge of the occurrence of any event affecting his or her initial or continued right to any benefit or payment or the initial or continued right to any benefit or payment of any other individual in whose behalf he or she has applied for or is receiving a benefit or payment, knowingly conceals or fails to disclose that event with an intent fraudulently to secure the benefit or payment either in a greater amount or quantity than is due or when no benefit or payment is authorized;</p> <p>(4) Having made or submitted a claim, request for payment, or application to receive any benefit or payment for the use and benefit of another person and having received it, knowingly converts the benefit or payment or any part thereof to a use other than for the use and benefit of the other person;</p> <p>(5) Knowingly presents or causes to be presented a claim for a physician's service for which payment may be made under the Arkansas Medicaid Program and knows that the individual who furnished the service was not licensed as a physician;</p> <p>(6) Knowingly solicits or receives any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind:</p> <p>    (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 the Arkansas Medicaid Program; or</p> <p>    (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 the Arkansas Medicaid Program;</p> <p>(7) (A) Knowingly 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 the person to:</p> <p>    (i) 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 the Arkansas Medicaid Program; or</p> <p>    (ii) 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 the Arkansas Medicaid Program.</p> <p>    (B) Subdivision (7)(A) of this section shall not apply to:</p> <p>        (i) A discount or other reduction in price obtained by a provider of services or other entity under the Arkansas Medicaid 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 the Arkansas Medicaid Program;</p> <p>        (ii) Any amount paid by an employer to an employee who has a bona fide employment relationship with the employer for employment in the providing of covered items or services;</p> <p>        (iii) 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 the Arkansas Medicaid Program, if:</p> <p>            (a) The person has a written contract with each individual or entity which specifies the amount to be paid to the person, which amount may be a fixed amount or a fixed percentage of the value of the purchases made by each individual or entity under the contract; and</p> <p>            (b) In the case of an entity that is a Medicaid provider as defined in <a href="#"><u>§ 20-77-901</u></a>, the person discloses, in the form and manner as the Director of the Department of Human Services requires, to the entity and upon request to the director the amount received from each vendor with respect to purchases made by or on behalf of the entity; or</p> <p>        (iv) Any payment practice specified by the director promulgated pursuant to applicable federal or state law;</p> <p>(8) Knowingly makes or causes to be made or induces or seeks to induce any omission or false statement or representation of a material fact with respect to the conditions or operation of any institution, facility, or Medicaid provider in order that the institution, facility, or Medicaid provider may qualify to obtain or maintain any licensure or certification when the licensure or certification is required to be enrolled or eligible to deliver any healthcare goods or services to Medicaid recipients by state law, federal law, or the rules of the Arkansas Medicaid Program;</p> |

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|                 | <p>(9) Knowingly:</p> <p>    (A) Charges for any service provided to a patient under Arkansas Medicaid Program money or other consideration at a rate in excess of the rates established by the state; or</p> <p>    (B) Charges, solicits, accepts, or receives, in addition to any amount otherwise required to be paid under the Arkansas Medicaid Program, 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:</p> <p>        (i) As a precondition of admitting a patient to a hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities; or</p> <p>        (ii) As a requirement for the patient's continued stay in the hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities when the cost of the services provided therein to the patient is paid for in whole or in part under the Arkansas Medicaid Program;</p> <p>(10) Knowingly makes or causes to be made any omission or false statement or representation of a material fact in any application for benefits or for payment in violation of the rules, regulations, and provider agreements issued by the Arkansas Medicaid Program or its fiscal agents;</p> <p>(11) Knowingly:</p> <p>    (A) Participates, directly or indirectly, in the Arkansas Medicaid Program after having pleaded guilty or nolo contendere to or been found guilty of a charge of Medicaid fraud, theft of public benefits, or abuse of adults as defined in the Arkansas Criminal Code, <a href="#">§ 5-1-101</a> et seq.; or</p> <p>    (B) As a certified health provider enrolled in the Arkansas Medicaid Program pursuant to Title XIX of the Social Security Act or the fiscal agent of such a provider who employs, engages as an independent contractor, engages as a consultant, or otherwise permits the participation in the business activities of such a provider, any person who has pleaded guilty or nolo contendere to or has been found guilty of a charge of Medicaid fraud, theft of public benefits, or abuse of adults as defined in the Arkansas Criminal Code, <a href="#">§ 5-1-101</a> et seq.;</p> <p>(12) Knowingly submits any false documentation supporting a claim or prior payment to the Office of Medicaid Inspector General or the Medicaid Fraud Control Unit within the office of the Attorney General during an audit or in response to a request for information or a subpoena;</p> <p>(13) Knowingly makes or causes to be made, or induces or seeks to induce, any material false statement to the Office of Medicaid Inspector General or the Medicaid Fraud Control Unit within the office of the Attorney General during an audit or in response to a request for information or a subpoena;</p> <p>(14) Knowingly forges the signature of a doctor or nurse on a prescription or referral for healthcare goods or services or submits a forged prescription or referral for healthcare goods or services in support of a claim for payment under the Arkansas Medicaid Program;</p> <p>(15) Knowingly places a false entry in a medical chart or medical record that indicates that healthcare goods or services have been provided to a Medicaid recipient knowing that the healthcare goods or services were not provided;</p> <p>(16) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to the Arkansas Medicaid Program;</p> <p>(17) Knowingly makes, uses, or causes to be made or used a false record or statement that is material to a false or fraudulent claim to the Arkansas Medicaid Program;</p> <p>(18) Knowingly:</p> <p>    (A) Makes, uses, or causes to be made or used a false record or statement that is material to an obligation to pay or transmit money or property to the Arkansas Medicaid Program; or</p> <p>    (B) Conceals or improperly avoids or decreases an obligation to pay or transmit money or property to the Arkansas Medicaid Program; or</p> <p>(19) Conspires to commit a violation of this section.</p> <p>History - <a href="#">Acts 1993, No. 1299, § 2; 2003, No. 1163, § 1; 2017, No. 978, § 9.</a></p> <p>~~~~~</p> <p>A.C.A. § 20-77-903</p> <p><b>20-77-903. Civil penalties.</b></p> <p>(a) It shall be unlawful for any person to commit any act proscribed by <a href="#">§ 20-77-902</a>, and any person found to have committed any such act or acts shall be deemed liable to the State of Arkansas, through the Attorney General, for:</p> <p>    (1) A civil penalty of not less than five thousand five hundred dollars (\$5,500) or more than eleven thousand dollars (\$11,000) for each claim; and</p> <p>    (2) Three (3) times the amount of damages that the state sustained because of the act of the person.</p> <p>(b) The trier of fact may assess not less than two (2) times the amount of damages that the state sustained because of the act of the person if the trier of fact finds the following:</p> <p>    (1) The person committing the violation of this subchapter furnished officials of the Attorney General's office with all information known to the person about the violation within thirty (30) days after the date on which the defendant first obtained the information; and</p> <p>    (2) The person fully cooperated with any Attorney General's investigation of the violation, and at the time the person furnished the Attorney General with the information about the violation:</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                 | <div>(A) No criminal prosecution, civil action, or administrative action had commenced under this subchapter with respect to the violation; and</div> <div>(B) The person did not have actual knowledge of the existence of an investigation into the violation.</div> <div>(c)</div> <div><div>(1) In addition to any other penalties authorized herein, any person violating this subchapter shall also be liable to the State of Arkansas for the Attorney General's reasonable expenses, including the cost of investigation, attorney's fees, court costs, witness fees, and deposition fees.</div><div>(2) Any cost or reimbursement ordered under this subsection shall be paid to the office of the Attorney General to be used for future Medicaid investigations and cases.</div></div> <div>(d) The entirety of any penalty obtained under subsection (a) of this section less reimbursement of investigation and prosecution costs and any reward which may be determined by the court pursuant to this subchapter shall be credited as special revenues of the State of Arkansas and deposited into the Arkansas Medicaid Program Trust Fund for the sole use of the Arkansas Medicaid Program.</div> <div>(e)</div> <div><div>(1) A person who engages or has engaged in any act described by <a href="#">§ 20-77-902</a> may be enjoined in a court of competent jurisdiction in an action brought by the Attorney General.</div><div>(2) An injunction described by subdivision (e)(1) of this section shall be:<div><div>(A) Brought in the name of the state; and</div><div>(B) Granted if a case is clearly shown that the rights of the state are being violated by the person and the state will suffer immediate and irreparable injury, loss, or damage pending a final judgment in the action or that the acts or omissions of the person will tend to render a final judgment ineffectual.</div></div></div></div> <div>(f) The court may make orders or judgments, including the appointment of a receiver, as necessary to:<div><div>(1) Prevent any act described by <a href="#">§ 20-77-902</a> by any person; or</div><div>(2) Restore to the Arkansas Medicaid Program any money or property, real or personal, that may have been acquired by means of an act described by <a href="#">§ 20-77-902</a>.</div></div><div>History - <a href="#">Acts 1993, No. 1299, §§ 3</a>, 4; <a href="#">1995, No. 1210, § 1</a>; <a href="#">2017, No. 278, § 9</a>.</div><div>~~~~~</div><div>A.C.A. § 20-77-907</div><div><b>20-77-907. Records.</b></div><div>(a)</div><div><div>(1) A Medicaid provider or person providing healthcare goods or services under the Arkansas Medicaid Program is required to maintain all records at least for a period of five (5) years from the date of claimed provision of any goods or services to any Medicaid recipient.</div><div>(2)<div><div>(A) The records described in subdivision (a)(1) of this section shall be available for audit during regular business hours at the address listed in the Medicaid provider agreement or where the healthcare goods or services are provided.</div><div>(B) Closed records for inactive patients or clients may be maintained in offsite storage if:<div><div>(i) The records can be produced within three (3) working days of being served with a request for records, subpoena, or other lawful notice from any agency with authority to audit the records; and</div><div>(ii) The records are maintained within the State of Arkansas.</div></div></div><div>(C) A Medicaid provider shall disclose upon request the location of any offsite storage facility to any agency with authority to audit the records.</div></div></div><div>(3) If the healthcare goods or services are provided in the home of the Medicaid recipient, the records shall be maintained at the principal place of business of the Medicaid provider.</div><div>(4) If a Medicaid provider goes out of business, the provider shall give written notification to the Department of Human Services and the Office of Medicaid Inspector General of where and how the records will be stored.</div></div><div>(b)</div><div><div>(1) No potential Medicaid recipient shall be eligible for medical assistance unless he or she has authorized in writing the Director of the Department of Human Services to examine all records of his or her own or of those receiving or having received Medicaid benefits through him or her, whether the receipt of the benefits would be allowed by the program or not, for the purpose of investigating whether any person may have violated this subchapter or for use or potential use in any legal, administrative, or judicial proceeding.</div><div>(2) No person shall be eligible to receive any payment from the program or its fiscal agents unless that person has authorized in writing the director to examine all records for the purpose of investigating whether any person may have committed the crime of Medicaid fraud or for use or for potential use in any legal, administrative, or judicial proceeding.</div></div></div> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>(c) The Attorney General shall be allowed access to all records of persons and Medicaid recipients under the program to which the director has access for the purpose of investigating whether any person may have violated this subchapter or for use or potential use in any legal, administrative, or judicial proceeding.</p> <p>(d)</p> <p>    (1) Records obtained by the director or the Attorney General pursuant to this subchapter shall be classified as confidential information and shall not be subject to outside review or release by any individual except when records are used or potentially to be used by any governmental entity in any legal, administrative, or judicial proceeding.</p> <p>    (2) Notwithstanding any other law to the contrary, no person shall be subject to any civil or criminal liability for providing access to records to the director, to the Attorney General, or to the prosecuting attorneys.</p> <p>History - <a href="#">Acts 1993, No. 1299, § 12; 2017, No. 978, § 11</a>.</p> <p><b><i>20-77-908. - False claims jurisdiction -- Procedure.</i></b></p> <hr/> <p>(a) Any action under this subchapter may be brought in the circuit court of Pulaski County or the county where the defendant or, in the case of multiple defendants, any one (1) defendant resides.</p> <p>(b) A civil action under this section may not be brought more than five (5) years after the date on which the violation of this subchapter is committed.</p> <p>(c) In any action brought pursuant to this subchapter, the State of Arkansas shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.</p> <p>(d) A subpoena requiring the production of documents or the attendance of a witness at an interview, trial, or hearing conducted under this section may be served by the Attorney General or any duly authorized law enforcement officer in the State of Arkansas personally, telephonically, or by registered or certified mail. 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.</p> <p><b><i>History - Acts 1993, No. 1299, §§ 7, 8; 2017, No. 978, § 12.</i></b></p> <hr/> <p>~~~~~</p> <p>A.C.A. § 20-77-910</p> <p><b>20-77-910. Suspension of violators.</b></p> <p>The Director of the Department of Human Services may suspend or revoke the provider agreement between the Department of Human Services and the person in the event that the person is found guilty of violating the terms of this subchapter.</p> <p><b>HISTORY:</b> <a href="#">Acts 1993, No. 1299, § 9</a>.</p> <hr/> <p><b>Qui Tam Actions &amp; Remedies</b></p> <hr/> <p><i>A.C.A. § 5-55-113</i></p> <p><b>5-55-113. Reward for Information</b></p> <p>(a) The court may pay a person such sums, not exceeding ten percent (10%) of the aggregate penalty recovered, as the court may deem just, for information the person may have provided that led to detecting and bringing to trial and punishment a person guilty of violating the medicaid fraud laws.</p> <p>(b) (1) Upon the disposition of any criminal action relating to a violation of this subchapter in which a penalty is recovered, the Attorney General may petition the court on behalf of a person who may have provided information that led to detecting and bringing to trial and punishment a person guilty of medicaid fraud to award the person in an amount commensurate with the quality and usefulness of the information determined by the court to have been provided, in accordance with the requirements of this subchapter.</p> <p>(2) If the Attorney General elects not to petition the court on behalf of the person, the person may petition the court on his or her own behalf.</p> <p>(c) Neither the state nor any defendant within the action is liable for expenses that a person incurs in bringing an action under this section.</p> |

| State /Citation                                         | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                                                         | <p>(d) An employee or fiscal agents charged with the duty of referring or investigating a case of medicaid fraud who are employed by or contract with any governmental entity are not eligible to receive a reward under this section.</p> <p><b>HISTORY:</b> <a href="#">Acts 1993, No. 1300, § 1</a>; <a href="#">2011, No. 1154, § 2</a>.</p> <p>~~~~~</p> <p>A.C.A. § 20-77-911</p> <p><b>20-77-911. Persons providing information regarding Medicaid fraud -- Rewards.</b></p> <p>(a) The court is authorized to pay a person sums, not exceeding ten percent (10%) of the aggregate penalty recovered, as it may deem just, for information the person may have provided which led to the detecting and bringing to trial and punishment persons guilty of violating the Medicaid fraud laws.</p> <p>(b) Upon disposition of any civil action relating to violations of this subchapter in which a penalty is recovered, the Attorney General may petition the court on behalf of a person who may have provided information that led to the detecting and bringing to trial and punishment persons guilty of Medicaid fraud to reward the person in an amount commensurate with the quality of information determined by the court to have been provided, in accordance with the requirements of this subchapter.</p> <p>(c) (1) If the Attorney General elects not to petition the court on behalf of the person, the person may petition the court on his or her own behalf.</p> <p>(2) Neither the state nor any defendant within the action shall be liable for expenses that a person incurs in bringing an action under this section.</p> <p>(d) An employee or a fiscal agent charged with the duty of referring or investigating cases of Medicaid fraud who is employed by or who contracts with any governmental entity shall not be eligible to receive a reward under this section.</p> <p><b>HISTORY:</b> <a href="#">Acts 1993, No. 1299, § 11</a>; <a href="#">2011, No. 1154, § 1</a>; <a href="#">2013, No. 1132, § 50</a>.</p> |
|                                                         | <p><b>Whistle-blower Protections</b></p> <p>A.C.A. § 5-55-104</p> <p>(d) Notwithstanding any other law to the contrary, no person is subject to any civil or criminal liability for providing access to records to the director, the Attorney General, or the prosecuting attorneys.</p> <p>History - Acts 1979, No. 823, § 10; A.S.A. 1947, § 41-4410; <a href="#">Acts 1993, No. 1291, §§ 3, 7</a>; <a href="#">2017, No. 978, § 4</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <a href="#">California</a> / Cal Gov Code § 12650-12655 | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b></p> <p><i>State Bulletin/Notice - <b>Section 6032 of the Deficit Reduction Act of 2005 – Education About False Claims Recovery</b></i></p> <p><a href="https://files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom_32281.pdf">https://files.medi-cal.ca.gov/pubsdoco/newsroom/newsroom_32281.pdf</a></p> <p><a href="http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2007/MMCDAPL07007.pdf">http://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2007/MMCDAPL07007.pdf</a></p> <p>Office of Attorney General @ <a href="https://oag.ca.gov/bmfea/medical">https://oag.ca.gov/bmfea/medical</a></p> <p>Cal Gov Code § 12650 - § 12656</p> <p><b>False Claims Actions</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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|                                                                                                                    | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p>Cal Gov Code § 12652[c]<br/><b>Investigations; Civil actions</b><br/><a href="http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&amp;sectionNum=12652">http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&amp;sectionNum=12652</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                                                                                                    | <p><b>Whistle-blower Protections</b></p> <p>Cal Gov Code § 12653<br/><b>Prohibited actions by employers; Remedies</b><br/><a href="http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&amp;sectionNum=12653">http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&amp;sectionNum=12653</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><u>Colorado</u></p> <p>C.R.S. 25.5-4-304<br/>C.R.S. 25.5-4-305<br/>C.R.S. 25.5-4-306<br/>C.R.S. 13-80-102.5</p> | <p><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b></p> <p><a href="https://www.colorado.gov/pacific/hcpf/Deficit-reduction-act-of-2005">https://www.colorado.gov/pacific/hcpf/Deficit-reduction-act-of-2005</a><br/><a href="https://www.colorado.gov/pacific/hcpf/how-report-suspected-fraud">https://www.colorado.gov/pacific/hcpf/how-report-suspected-fraud</a><br/><a href="https://www.colorado.gov/hcpf/fraud-waste-and-abuse">https://www.colorado.gov/hcpf/fraud-waste-and-abuse</a></p> <p><b>C.R.S. 26-1-127</b><br/><i>Fraudulent acts</i><br/>(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 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, commits the crime of theft, which crime shall be classified in accordance with <a href="#">section 18-4-401 (2), C.R.S.</a>, and which crime shall be punished as provided in <a href="#">section 18-1,3-401, C.R.S.</a>, if the crime is classified as a felony, or <a href="#">section 18-1,3-501, C.R.S.</a>, 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 any public assistance program under article 2 of this title 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.</p> <p>(1.5) To the extent not otherwise prohibited by state or federal law, any person against whom a county department of social services or the state department 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 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 any public assistance program under article 2 of this title 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.</p> <p>(2) (a) If, at any time during the continuance of public assistance under this title, the recipient thereof 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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>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 class 3 misdemeanor and shall be punished as provided in <a href="#">section 18-1.3-501, C.R.S.</a> 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 shall be excluded from the thirty-day written reporting requirement but shall be reported at the time of the next redetermination of eligibility of a recipient.</p> <p>(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.</p> <p>(3) Any recipient or vendor who falsifies any report required under this title commits a class 3 misdemeanor and shall be punished as provided in <a href="#">section 18-1.3-501, C.R.S.</a></p> <p>(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 <a href="#">section 20-1-302, C.R.S.</a>, and the county departments shall pay such costs as an expense of public assistance administration.</p> <p>(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.</p> <p>(6) Repealed.</p> <p><b>HISTORY:</b> Source: L. 77: Entire section added, p. 1333, § 3, effective January 1, 1978.L. 79: (6) repealed, p. 1093, § 2, effective June 21.L. 81: (1) amended, p. 1371, § 1, effective June 5.L. 89: (1) amended, p. 846, § 118, effective July 1.L. 94: (1) amended and (1.5) added, p. 2062, § 4, effective July 1.L. 97: (1) and (1.5) amended, p. 1229, § 13, effective July 1.L. 2002: (1), (2)(a), and (3) amended, p. 1538, § 272, effective October 1</p> <p>C.R.S. 25.5-4-303.5 - Short title</p> <p>This section and <a href="#">sections 25.5-4-304</a> to <a href="#">25.5-4-310</a> shall be known and may be cited as the "Colorado Medicaid False Claims Act".</p> <p><b>HISTORY:</b> Source: L. 2010: Entire section added, <a href="#">(SB 10-167), ch. 296, p. 1379, § 10</a>, effective May 26.</p> <p>C.R.S. 25.5-4-304 - Definitions</p> <p>As used in <a href="#">sections 25.5-4-303.5</a> to <a href="#">25.5-4-309</a>, unless the context otherwise requires:</p> <p>(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 Act" that is:</p> <p>(I) Presented to an officer, employee, or agent of the state; or</p> <p>(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:</p> <p>(A) Provides or has provided any portion of the money or property requested or demanded; or</p> <p>(B) Will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.</p> <p>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>(2) "Colorado Medical Assistance Act" means this article and articles 5 and 6 of this title.</p> <p>(3) (a) "Knowing" or "knowingly" means that a person, with respect to information:</p> <p>(I) Has actual knowledge of the information;</p> <p>(II) Acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(III) Acts in reckless disregard of the truth or falsity of the information.</p> <p>(b) "Knowing" or "knowingly" does not require proof of specific intent to defraud.</p> <p>(4) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>(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.</p> <p><b>HISTORY:</b> Source: L. 2006: Entire article added with relocations, p. 1838, § 7, effective July 1.L. 2010: Entire section R&amp;RE, <a href="#">(SB 10-167), ch. 296, p. 1379, § 11</a>, effective May 26.L. 2013: (5) amended, <a href="#">(SB 13-205), ch. 276, p. 1441, § 3</a>, effective August 7.</p> <p><b>C.R.S. 25.5-4-305 - False medicaid claims - liability for certain acts</b></p> <p>(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", <a href="#">31 U.S.C. sec. 3729</a>, 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:</p> <p>(a) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;</p> <p>(b) Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;</p> <p>(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 the money or property;</p> <p>(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;</p> <p>(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;</p> <p>(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";</p> <p>(g) Conspires to commit a violation of paragraphs (a) to (f) of this subsection (1).</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>(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:</p> <p>(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;</p> <p>(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</p> <p>(c) The person fully cooperated with any investigation of the violation by the state.</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> Source: L. 2006: Entire article added with relocations, p. 1839, § 7, effective July 1.L. 2010: Entire section R&amp;RE, <a href="#">(SB 10-167), ch. 296, p. 1380, § 12</a>, effective May 26.L. 2011: IP(1) amended, <a href="#">(HB 11-1303), ch. 264, p. 1168, § 66</a>, effective August 10.L. 2013: IP(1) and (1)(a) amended, <a href="#">(SB 13-205), ch. 276, p. 1441, § 4</a>, effective August 7.</p> <p><b>C.R.S. 18-5-114 - Offering a false instrument for recording</b></p> <p>(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.</p> <p>(2) Offering a false instrument for recording in the first degree is a class 5 felony.</p> <p>(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.</p> <p>(4) Offering a false instrument for recording in the second degree is a class 1 misdemeanor.</p> <p><b>HISTORY:</b> Source: L. 71: R&amp;RE, p. 437, § 1. C.R.S. 1963: § 40-5-114.L. 80: Entire section amended, p. 536, § 1, effective April 13.</p> <p><b>10 CCR 2505-10 - MEDICAL ASSISTANCE</b><br/><a href="https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=1584">https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=1584</a><br/>8.070.01 ACTIONS CONCERNING INDIVIDUALS SUSPECTED OF FRAUDULENT ACTS [Rev. eff. 11/01/81]</p> <p>It is the duty of the county department to take action against any person suspected of obtaining Medicaid benefits to which he is not entitled or in a greater amount than that to which he is entitled.<br/>*Much of Section 8.070 was eliminated and Section 8.076 was created and adopted by the Medical Services Board on December 8, 2000.</p> <p>8.076 PROGRAM INTEGRITY</p> <p>8.076.1 DEFINITIONS</p> <p>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</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p>program, or in reimbursement for goods or services that are not medically necessary, as defined at 8.076.1.8., or that fail to meet professionally recognized standards for health care. These practices may include, but are not limited to:</p> <ul style="list-style-type: none"><li>a. Billing for goods or services without valid documentation to support the claims submitted for reimbursement.</li><li>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.</li><li>c. Submitting a fee-for-service claim or claims for goods or services before they have been provided.</li><li>d. Signing prior authorizations or physician's orders for goods or services that are inappropriate or not medically necessary for the client.</li><li>e. Presenting or causing to be presented for payment any false or fraudulent claim for goods or services.</li><li>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.</li><li>g. Submitting or causing to be submitted false information for the purpose of meeting prior authorization requirements.</li><li>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.</li><li>i. Engaging in a course of conduct or performing an act deemed improper or continuing such conduct following notification that said conduct should cease.</li><li>j. Visiting a facility, such as a nursing home, and billing for individual visits without rendering any specific service to individual clients.</li><li>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.</li><li>l. Violating any applicable regulation listed at <a href="#"><i>10 C.C.R. 2505-10</i></a>, Section 8.000, et. seq.</li><li>m. Submitting a false or fraudulent application for provider status.</li><li>n. Violating any laws or regulations pertaining to federal or state health care programs or failing to meet professionally recognized standards for health care</li><li>o. Conviction of a criminal offense relating to:<ul style="list-style-type: none"><li>i) Performance of the Provider Agreement with the State;</li><li>ii) Negligent practice resulting in the death or injury to patients;</li><li>iii) Patient abuse;</li><li>iv) Fraudulent billing practices; or</li><li>v) Misuse or misapplication of program funds.</li></ul></li><li>p. Failure to meet standards required by state or federal law for participation such as licensure or certification requirements.</li></ul> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>q. Failure to correct deficiencies in provider operations in accordance with an accepted plan of correction after receiving written notice of these deficiencies from the Department, its designees, or other state agencies.</p> <p>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.</p> <p>s. Suspension, exclusion, or termination from participation in another governmental medical program for fraudulent or abusive practices.</p> <p>t. Failure to repay or make arrangements to repay overpayments or payments made in error.</p> <p>u. Use of another provider's provider identification number for the purpose of obtaining reimbursement.</p> <p>v. Use of client identification numbers to submit claims for reimbursement for goods or services that were not rendered or delivered.</p> <p>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.</p> <p>2. Conviction or Convicted means that:</p> <p>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;</p> <p>b. A federal, state, or local court has made a finding of guilt against an individual or entity;</p> <p>c. A federal, state, or local court has accepted a plea of guilty or nolo contendere by an individual or entity; or</p> <p>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.</p> <p>3. Excluded means a Provider that has been barred from participating in any health care program pursuant to <a href="#">42 USC §1320a-7</a>(a) or (b). <a href="#">42 USC §1320a-7</a>(a) and <a href="#">42 USC §1320a-7</a>(b) are incorporated herein by reference. No amendments or later editions are incorporated. Copies are available for inspections from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203-1818. Any material that has been incorporated by reference in this rule may be examined at any state publications repository library.</p> <p>4. False representation means an inaccurate statement that is relevant to a claim for reimbursement 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.</p> <p>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 applicable federal or state law.</p> <p>6. Furnished refers to goods and 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.</p> <p>7. Good cause, for the purpose of withholding payments to a provider or denying, terminating, or not renewing a Provider agreement means:</p> <p>a. The Provider has failed to comply substantially with rules, manuals, and bulletins issued by the Department, board, or the Department's fiscal agent.</p> <p>b. The Provider has not complied with applicable federal and state statutes and regulations.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>c. The Provider, either by omission or commission, is endangering or has endangered the health, safety, or well-being of a program services beneficiary or beneficiaries.</p> <p>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.</p> <p>e. The Provider's license or certification has expired, been revoked or suspended, or 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.</p> <p>f. The Provider has been excluded or suspended from the Medical Assistance program or has been excluded or suspended from reimbursement under the Medicare program unless a waiver is granted by the Department of Health and Human Services Office of Inspector General.</p> <p>g. The Provider has failed to fully and accurately make any disclosures required by federal and state statutes or regulations.</p> <p>h. Any person with an ownership or controlling interest in the Provider, or who is a Provider's agent or managing employee, who has been convicted of a criminal offense related to that person's involvement in any program established under Medicare or Medicaid.</p> <p>i. The Provider has demonstrated a pattern of abuse.</p> <p>j. The Provider has engaged in false representation and/or fraud in submitting Medical Assistance program claims.</p> <p>k. The Provider has solicited or accepted from an eligible client, his or her family, friend, estate, or other representative an amount over and above the Medical Assistance program reimbursement amount for covered goods or services, excluding any required copayment, coinsurance, or other client cost-sharing amounts.</p> <p>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.</p> <p>8. Medical necessity means a Medical Assistance program good or service that 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, injury, or disability. It may also include a course of treatment that includes mere observation or no treatment at all. The good or service must be:</p> <p>i) Provided in accordance with generally accepted standards of medical practice in the United States;</p> <p>ii) Clinically appropriate in terms of type, frequency, extent, site, and duration;</p> <p>iii) Not primarily for the economic benefit of the provider or for the convenience of the client, caretaker, or provider; and</p> <p>iv) Performed in a cost effective and most appropriate setting required by the client's condition.</p> <p>9. Overpayment means the amount paid to a Provider which is in excess of the amount that is allowable for goods or services furnished under Section 1902 of the Social Security Act and which is required to be refunded under Section 1903 of the Act.</p> <p>10. Provider means any person, public or private institution, agency, or business concern providing medical or remedial care, services or goods authorized under the Medical Assistance program and holding, where applicable, a current valid license or certificate to provide such services or to dispense such goods, and enrolled in the Medical Assistance program</p> <p>11. Suspension means that goods or services furnished by a specific Provider who has been convicted of a program-related offense in a federal, state or local court will not be reimbursed under the Medical Assistance program.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>8.076.2 COMPLIANCE MONITORING</p> <p>8.076.2.A. All Providers shall comply with the efforts of the Department, its designees, any investigative entity, or the Medicaid Fraud Control Unit to monitor Provider compliance with federal and state Medical Assistance program statutes and regulations in order to detect and correct noncompliance and prevent fraud and abuse.</p> <p>8.076.2.B. Compliance monitoring includes, but is not limited to:</p> <ol style="list-style-type: none"><li>1. Conducting prospective, concurrent, and/or post-payment reviews of claims.</li><li>2. Verifying Provider adherence to professional licensing and certification requirements.</li><li>3. Reviewing goods provided and services rendered for fraud and abuse.</li><li>4. Reviewing compliance with rules, manuals, and bulletins issued by the Department, board, or the Department's fiscal agent.</li><li>5. Reviewing compliance with nationally recognized billing standards and those established by professional organizations including, but not limited to, Current Procedural Terminology (CPT) and Current Dental Terminology (CDT).</li><li>6. Reviewing adherence to the terms of the Provider Participation Agreement.</li></ol> <p>8.076.2.C. Compliance monitoring activities may include, but are not limited to:</p> <ol style="list-style-type: none"><li>1. Site reviews.</li><li>2. Desk audits.</li><li>3. Medical records reviews.</li><li>4. Claims reviews.</li><li>5. Data mining.</li></ol> <p>8.076.2.D. The US Department of Health and Human Services, the Department, the Medicaid Fraud Control Unit, 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.</p> <p>8.076.2.E. The Department or its designees shall provide a written request to the Provider to review records. This request shall include clearly defined due dates for submitting requested records, the procedures for requesting an extension of time to submit the requested records, and the procedures for requesting an informal reconsideration or an appeal. 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:</p> <ol style="list-style-type: none"><li>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; or</li><li>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.</li></ol> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>8.076.2.F. Records received by the Department after the forty-five (45) calendar day deadline shall not be considered in the review, unless the Department has granted a written extension. 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.</p> <p>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.</p> <p>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. 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.</p> <p>8.076.2.I. The Department's post-review formal correspondence shall indicate areas of strength, suggestions for improvement and required actions, unless the review is conducted for the purpose of post-payment review. 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.</p> <p>8.076.2.J. Duplication of Records - The Department staff, its designees, or the Medicaid Fraud Control Unit 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 Department or its designees and the Medicaid Fraud Control Unit shall be allowed to use duplicating equipment on the Provider's premises to the extent that such use results in minimal disruption of the Provider's business. If such use of duplicating equipment shall 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.</p> <p>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, shall be subject to the requirements set forth at 8.076.2.E.</p> <p>8.076.2.L. The Department may delegate compliance monitoring activities.</p> <p>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.</p> <p>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.</p> <p>8.076.3 RECOVERY OF OVERPAYMENTS</p> <p>8.076.3.A. Any identified overpayment to a Provider shall be recoverable following exhaustion of any informal reconsideration or appeal pursuant to 8.050.6 and 8.050.3.</p> <p>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.</p> <p>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.</p> <p>3 In cases where multiple overpayments to the same Provider have been found, the recovery may be determined through scientific statistical analysis and extrapolation of data from a statistically valid selected sample of the claims.</p> <p>4. A provider shall have the right to request an informal reconsideration or an appeal of an identified overpayment. The regulations for reconsiderations are set forth at 8.050.6.A. The regulations for appeals are set forth at 8.050.3.A.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>8.076.4 WITHHOLDING OF PAYMENT DURING INVESTIGATION FOR FRAUD AND/OR WILLFUL MISREPRESENTATION</p> <p>8.076.4.A. Payments to a provider may be withheld, in whole or in part, upon receipt of reliable evidence that the circumstances giving rise to the need for a withholding of payments involve fraud or willful misrepresentation under the Medical Assistance program. Payments may be withheld without first notifying the Provider of the intention to withhold such payments. A Provider shall be granted appeal rights upon request.</p> <p>8.076.4.B. Notice of withholding shall be sent to the Provider within five (5) calendar days of taking such action. The notice shall:</p> <ol style="list-style-type: none"><li>1. State that payments are being withheld in accordance with this provision;</li><li>2. State that the withholding is for a temporary period, as stated in 8.076.4.C and cite the circumstances under which withholding will be terminated;</li><li>3. Specify, when appropriate, to which type or types of claims withholding is effective; and</li><li>4. Inform the Provider of the right to submit written evidence for consideration by the Department.</li></ol> <p>8.076.4.C. A withholding of payment action under 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.</p> <p>8.076.5 DENIAL, TERMINATION AND/OR NONRENEWAL OF PROVIDER AGREEMENTS</p> <p>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 8.076.1.7.</p> <p>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.</p> <p>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 8.076.5.D.</p> <p>8.076.5.D. Provider agreements may be terminated without prior notice if:</p> <ol style="list-style-type: none"><li>1. The Provider has been found guilty of fraud;</li><li>2. The Provider has been found to have made a false representation; or</li><li>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..</li></ol> <p>-----</p> <p><b>C.R.S. 13-80-102.5 - Limitation of actions - medical or health care</b></p> <p>(1) Except as otherwise provided in this section or <a href="#">section 25.5-4-307, C.R.S.</a>, no action alleging negligence, breach of contract, lack of informed consent, or other action arising in tort or contract to recover damages from any health care institution, as defined in paragraph (a) of subsection (2) of this section, or any health care professional, as defined in paragraph (b) of subsection (2) of this section, shall be maintained unless such action is instituted within two years after the date that such action accrues pursuant to <a href="#">section 13-80-108 (1)</a>, but in no event shall an action be brought more than three years after the act or omission which gave rise to the action.</p> <p>(2) For the purposes of this section:</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>(a) "Health care institution" means any hospital, health care facility, dispensary, clinic, or other institution which is licensed or certified as such under the laws of this state.</p> <p>(b) "Health care professional" means any physician, nurse, dentist, chiropractor, pharmacist, optometrist, psychologist, podiatrist, physical therapist, or other health care practitioner who is licensed to perform such profession under the laws of this state.</p> <p>(3) The limitation of actions provided in subsection (1) of this section shall not apply under the following circumstances:</p> <p>(a) If the act or omission which gave rise to the cause of action was knowingly concealed by the person committing such act or omission, in which case the action may be maintained if instituted within two years after the person bringing the action discovered, or in the exercise of reasonable diligence and concern should have discovered, the act or omission; or</p> <p>(b) If the act or omission consisted of leaving an unauthorized foreign object in the body of the patient, in which case the action may be maintained if instituted within two years after the person bringing the action discovered, or in the exercise of reasonable diligence and concern should have discovered, the act or omission; or</p> <p>(c) If both the physical injury and its cause are not known or could not have been known by the exercise of reasonable diligence; or</p> <p>(d) If the action is brought by or on behalf of:</p> <p>(I) A minor under eight years of age who was under six years of age on the date of the occurrence of the act or omission for which the action is brought, in which case the action may be maintained at any time prior to his attaining eight years of age; or</p> <p>(II) A person otherwise under disability as defined in <a href="#">section 13-81-101</a>, in which case the action may be maintained within the time period as provided in <a href="#">section 13-81-103</a>.</p> <p><b>HISTORY:</b> Source: L. 88: Entire section added, p. 626, § 1, effective July 1.L. 2013: (1) amended, <a href="#">(SB 13-205), ch. 276, p. 1440, § 1</a>, effective August 7.</p> <p><a href="#"><u>Colorado Revised Statutes</u></a></p> <p><a href="#"><u>TITLE 18. CRIMINAL CODE</u></a></p> <p><a href="#"><u>ARTICLE 5. OFFENSES INVOLVING FRAUD</u></a></p> <p><a href="#"><u>PART 2. FRAUD IN OBTAINING PROPERTY OR SERVICES</u></a></p> <p><b>C.R.S. 18-5-211 - Insurance fraud - definitions</b></p> <p>(1) A person commits insurance fraud if the person does any of the following:</p> <p>    <b>(a)</b> 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;</p> <p>    <b>(b)</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;</p> <p>    <b>(c)</b> 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;</p> <p>    <b>(d)</b> 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</p> <p>    <b>(e)</b> 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.</p> <p>(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.</p> <p>(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.</p> |



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|                 | <p>(4) Insurance fraud committed in violation of paragraph (a) of subsection (1) of this section is a class 1 misdemeanor. Insurance fraud committed in violation of paragraphs (b) to (e) of subsection (1) of this section or subsection (2) or (3) of this section is a class 5 felony.</p> <p>(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.</p> <p>(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.</p> <p>(7) As used in this section, unless the context otherwise requires:</p> <p>    (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.</p> <p>    (b) "Insurance" has the same meaning as defined in <a href="#">section 10-1-102 (12), C.R.S.</a></p> <p>    (c) "Insurance producer" has the same meaning as defined in <a href="#">section 10-2-103 (6), C.R.S.</a></p> <p>    (d) "Insurer" has the same meaning as defined in <a href="#">section 10-1-102 (13), C.R.S.</a></p> <p>    (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.</p> <p>History - Source: L. 2014: Entire section added, <a href="#">(SB 14-092), ch. 190, p. 708, § 1</a>, effective July 1. L. 2017: (1)(a), (1)(b), (1)(d), (1)(e), (2), (3), (6), and (7)(a) amended, <a href="#">(HB 17-1048), ch. 68, p. 214, § 1</a>, effective August 9.</p> <hr/> <p><a href="#">Colorado Revised Statutes</a><br/><a href="#">TITLE 16. CRIMINAL PROCEEDINGS</a><br/><a href="#">CODE OF CRIMINAL PROCEDURE</a><br/><a href="#">ARTICLE 5. COMMENCEMENT OF CRIMINAL ACTION</a><br/><a href="#">PART 4. STATUTE OF LIMITATIONS</a></p> <p><i>C.R.S.16-5-401. - Limitation for commencing criminal proceedings and juvenile delinquency proceedings</i><br/><i>(4.5) The period within which a prosecution must be commenced begins to run upon discovery of the criminal act or the delinquent act for:</i><br/><i>(x) Insurance fraud, pursuant to <a href="#">section 18-5-211</a>.</i><br/><i>History: <a href="#">(HB 16-1260), ch. 363, p. 1514, § 1</a>, effective July 1. L. 2017: (4.5)(v) and (4.5)(w) amended and (4.5)(x) added, <a href="#">(HB 17-1048), ch. 68, p. 215, § 2</a>, effective August 9.</i></p> <hr/> <tr><td></td><td><p><b>Qui Tam Actions &amp; Remedies</b></p><p><b>C.R.S. 25.5-4-306 - Civil actions for false medicaid claims</b></p><p>(1) <b>Responsibility of attorney general.</b> 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.</p><p>(2) <b>Actions by private persons.</b> (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.</p><p>(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</p></td></tr> |  | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>C.R.S. 25.5-4-306 - Civil actions for false medicaid claims</b></p> <p>(1) <b>Responsibility of attorney general.</b> 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.</p> <p>(2) <b>Actions by private persons.</b> (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. 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|                 | <p>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.</p> <p>(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.</p> <p>(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:</p> <p>(I) Proceed with the action, in which case the state shall conduct the action; or</p> <p>(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.</p> <p>(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.</p> <p><b>(3) Rights of parties to private actions.</b> (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).</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(A) Limiting the number of witnesses the relator may call;</p> <p>(B) Limiting the length of the testimony of the witnesses;</p> <p>(C) Limiting the relator's cross-examination of witnesses; or</p> <p>(D) Otherwise limiting the participation by the relator in the litigation.</p> <p>(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.</p> <p>(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.</p> <p>(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 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</p> |

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|                 | <p>investigation or proceedings.</p> <p>(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.</p> <p><b>(4) Award to private persons.</b> (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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p><b>(5) Certain actions barred.</b> (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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p><b>(6) State not liable for certain expenses.</b> The state is not liable for expenses that a relator incurs in bringing an action under this section.</p> |

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|                 | <p><b>HISTORY:</b> 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, <a href="#">(SB 09-292), ch. 369, p. 1974, § 97</a>, effective August 5. L. 2010: Entire section R&amp;RE, <a href="#">(SB 10-167), ch. 296, p. 1382, § 13</a>, effective May 26.L. 2013: (2)(e), (5), and (7) amended, <a href="#">(SB 13-205), ch. 276, p. 1441, § 5</a>, effective August 7.</p> <p><b>C.R.S. 25.5-4-307 - False medicaid claims procedures - statute of limitations</b></p> <p>(1) A civil action under section 25.5-4-306 (1) or (2) may not be brought after the later of:</p> <p>(a) More than six years after the date on which the violation of section 25.5-4-305 is committed; or</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> Source: L. 2010: Entire section added, <a href="#">(SB 10-167), ch. 296, p. 1386, § 14</a>, effective May 26.L. 2013: (5) added, <a href="#">(SB 13-205), ch. 276, p. 1442, § 6</a>, effective August 7.</p> <p>-----</p> <p>C.R.S. 25.5-4-308 - False medicaid claims jurisdiction</p> <p>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.</p> <p><b>HISTORY:</b> Source: L. 2010: Entire section added, <a href="#">(SB 10-167), ch. 296, p. 1387, § 14</a>, effective May 26.</p> <p>C.R.S. 25.5-4-309 - False medicaid claims civil investigation demands</p> <p>(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:</p> <p>(A) Produce the documentary material for inspection and copying;</p> |

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|                 | <p>(B) Answer in writing written interrogatories with respect to the documentary material or information;</p> <p>(C) Give oral testimony concerning the documentary material or information; or</p> <p>(D) Furnish any combination of such material, answers, or testimony.</p> <p>(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.</p> <p>(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.</p> <p>(II) If the demand is for the production of documentary material, the demand shall:</p> <p>(A) Describe each class of documentary material to be produced with such definiteness and certainty as to permit the material to be fairly identified;</p> <p>(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</p> <p>(C) Identify the false medicaid claims law investigator to whom the material shall be made available.</p> <p>(III) If the demand is for answers to written interrogatories, the demand shall:</p> <p>(A) Specify the written interrogatories to be answered;</p> <p>(B) Prescribe dates on which answers to written interrogatories shall be submitted; and</p> <p>(C) Identify the false medicaid claims law investigator to whom the answers shall be submitted.</p> <p>(IV) If the demand is for the giving of oral testimony, the demand shall:</p> <p>(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;</p> <p>(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;</p> <p>(C) Specify that such attendance and testimony are necessary to the conduct of the investigation;</p> <p>(D) Notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and</p> <p>(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.</p> <p>(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.</p> <p>(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</p> |

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|                 | <p>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.</p> <p>(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 <a href="#">section 24-31-103, C.R.S.</a>, 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).</p> <p>(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:</p> <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(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;</p> <p>(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</p> <p>(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.</p> <p>(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:</p> <p>(I) Delivering an executed copy of the demand or petition to the person; or</p> <p>(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.</p> |

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|                 | <p>(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.</p> <p>(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:</p> <p>(A) In the case of a natural person, the person to whom the demand is directed; or</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(I) In the case of a natural person, the person to whom the demand is directed; or</p> <p>(II) In the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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 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</p> |



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|                 | <p>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.</p> <p>(c) 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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#"><i>section 13-90-118, C.R.S.</i></a></p> <p>(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.</p> <p>(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.</p> <p>(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).</p> <p>(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.</p> <p>(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).</p> <p>(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.</p> <p>(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.</p> <p>(IV) While in the possession of the custodian and under such reasonable terms and conditions as the attorney general shall prescribe:</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(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</p> <p>(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.</p> <p>(c) (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:</p> <p>(A) Designate another false medicaid claims law investigator to serve as custodian of the material, answers, or transcripts; and</p> <p>(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.</p> <p>(II) A person who is designated to be a successor under this paragraph (c) 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.</p> <p>(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.</p> <p>(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):</p> <p>(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</p> <p>(B) Within such longer period as may be prescribed in writing by a false medicaid claims law investigator identified in the demand.</p> <p>(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 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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>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.</p> <p>(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):</p> <p>(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</p> <p>(B) Within such longer period as may be prescribed in writing by the false medicaid claims law investigator identified in the demand.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">section 13-4-102, C.R.S.</a> Any disobedience of a final order entered by a court under this section shall be punished as a contempt of the court.</p> <p>(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.</p> <p>(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 <a href="#">section 24-72-203, C.R.S.</a></p> <p>(12) Definitions. As used in this section, unless the context otherwise requires:</p> <p>(a) "Custodian" means the custodian, or any deputy custodian, designated by the attorney general under paragraph (a) of subsection (9) of this section.</p> <p>(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.</p> <p>(c) "False medicaid claims law" means:</p> <p>(I) This section and sections 25.5-4-303.5 to 25.5-4-308; and</p> <p>(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.</p> <p>(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 medicaid claims law.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>(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.</p> <p>(f) "Person" means a natural person, partnership, corporation, association, or other legal entity.</p> <p>(g) "Product of discovery" means:</p> <p>(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;</p> <p>(II) A digest, analysis, selection, compilation, or derivation of an item listed in subparagraph (I) of this paragraph (g); and</p> <p>(III) An index or other manner of access to an item listed in subparagraph (I) of this paragraph (g).</p> <p><b>HISTORY:</b> Source: L. 2010: Entire section added, <a href="#">(SB 10-167), ch. 296, p. 1387, § 14</a>, effective May 26.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                 | <p><b>Whistle-blower Protections</b></p> <p><b>C.R.S. 25.5-4-306 - Civil actions for false medicaid claims</b></p> <p><b>(7) Private action for retaliation.</b> (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.</p> <p>(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:</p> <p>(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</p> <p>(B) Compensation for any special damages sustained as a result of the discrimination or retaliation, including litigation costs and reasonable attorney fees.</p> <p>(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).</p> <p><b>HISTORY:</b> 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, <a href="#">(SB 09-292), ch. 369, p. 1974, § 97</a>, effective August 5. L. 2010: Entire section R&amp;RE, <a href="#">(SB 10-167), ch. 296, p. 1382, § 13</a>, effective May 26.L. 2013: (2)(c), (5), and (7) amended, <a href="#">(SB 13-205), ch. 276, p. 1441, § 5</a>, effective August 7.</p> <p><b>C.R.S. 8-2-123</b><br/><b>Health care workers - retaliation prohibited – definitions</b></p> <p>(1) As used in this section:</p> <p>(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</p> |

| State /Citation                | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                | <p>discipline or penalty."Disciplinary action" shall not include action taken that is related to staffing or patient care needs.</p> <p>(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.</p> <p>(c) "Health care provider" means any health care facility licensed under <a href="#">section 25-3-101, C.R.S.</a>, or any individual who is authorized to practice some component of the healing arts by license, certificate, or registration.</p> <p>(d) "Health care worker" means any person certified, registered, or licensed pursuant to article 22, 29.5, 32, 33, 35, 36, or 37, or 38 to 43 of title 12, C.R.S., or certified pursuant to <a href="#">section 25-3.5-203, C.R.S.</a></p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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 1 of article 36.5 of title 12, C.R.S., or quality and safety standards for a health care facility licensed pursuant to <a href="#">section 25-3-101, C.R.S.</a></p> <p><b>HISTORY:</b> Source: L. 2007: Entire section added, p. 284, § 2, effective March 29.</p> <p><b>State Employee Protection</b><br/><b>C.R.S. 24-50.5-103</b><br/><i>Retaliation prohibited</i><br/>Except as provided in subsection (2) of this section, no appointing authority or supervisor shall initiate or administer any disciplinary action against an employee on account of the employee's disclosure of information. This section shall not apply to:</p> <p>(a) An employee who discloses information that he knows to be false or who discloses information with disregard for the truth or falsity thereof;<br/>(b) An employee who discloses information from public records which are closed to public inspection pursuant to <a href="#">section 24-72-204</a>;<br/>(c) An employee who discloses information which is confidential under any other provision of law.<br/>(2) It shall be the obligation of an employee who wishes to disclose information under the protection of this article to make a good faith effort to provide to his supervisor or appointing authority or member of the general assembly the information to be disclosed prior to the time of its disclosure..<br/><b>HISTORY:</b> Source: L. 79: Entire article added, p. 966, § 1, effective June 15.</p> |
| <u>Connecticut</u>             | <b>Criminal and Civil Penalties for False Claims and Statements</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Conn. Gen. Stat. § 4-274 - 289 | <b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b><br><a href="https://portal.ct.gov/DSS/Quality-Assurance/To-Report-Fraud-or-Abuse-of-Programs">https://portal.ct.gov/DSS/Quality-Assurance/To-Report-Fraud-or-Abuse-of-Programs</a><br><a href="https://portal.ct.gov/AG/Sections/Heath-Care-Fraud--Whistleblower-Health-Care-Advocacy/Health-Care-Fraud-Unit">https://portal.ct.gov/AG/Sections/Heath-Care-Fraud--Whistleblower-Health-Care-Advocacy/Health-Care-Fraud-Unit</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| Conn. Gen. Stat. §§ 17b-301 -<br><br>CT General Statute Sec. 31-51m<br>CT General Statute Sec. 31-51q<br>CT General Statute Sec. 53a-290 et seq.<br>CT General Statute Sec. 17b-127<br>CT General Statute Sec. 53-440 et seq.<br>CT General Statute Sec. 53a-118 et seq.<br>CT General Statute Sec. 53a-155<br>CT General Statute Sec. 53a-157b<br>CT General Statute Sec. 17b-25a<br>CT General Statute Sec. 17b-99<br>CT General Statute Sec. 17b-102<br>CT General Statute Sec. 4-61dd<br>Regs. CT State Agencies Sec. 17-83k-1 et seq.<br>Regs. CT State Agencies Sec. 17b-102-01 et seq.<br>Regs. CT State Agencies Sec. 4-61dd-1 et seq. | <p><i>State Bulletin/Notice - <b>Section 6032 of the Deficit Reduction Act of 2005 – Education About False Claims Recovery</b></i><br/><a href="https://www.ctdssmap.com/CTPortal/Portals/0/StaticContent/Publications/Deficit%20Reduction%20Act%20Affidavit.pdf">https://www.ctdssmap.com/CTPortal/Portals/0/StaticContent/Publications/Deficit%20Reduction%20Act%20Affidavit.pdf</a></p> <p>Title 4 Management of State Agencies<br/>Chapter 55e False Claims and Other Prohibited Acts Under State-Administered Health or Human Services Programs<br/><a href="https://www.cga.ct.gov/current/pub/chap_055e.htm">https://www.cga.ct.gov/current/pub/chap_055e.htm</a></p> <p>Conn. Gen. Stat. § 4-275 - <b>False claims and other prohibited acts re state-administered health or human services programs. Penalties.</b><br/><a href="https://www.cga.ct.gov/current/pub/chap_055e.htm#sec_4-275">https://www.cga.ct.gov/current/pub/chap_055e.htm#sec_4-275</a></p> <p><b>(a)</b> No person shall:</p> <p>    <b>(1)</b> Knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval under a state-administered health or human services program;</p> <p>    <b>(2)</b> Knowingly make, use or cause to be made or used, a false record or statement material to a false or fraudulent claim under a state-administered health or human services program;</p> <p>    <b>(3)</b> Conspire to commit a violation of this section;</p> <p>    <b>(4)</b> Having possession, custody or control of property or money used, or to be used, by the state relative to a state-administered health or human services program, knowingly deliver, or cause to be delivered, less property than the amount for which the person receives a certificate or receipt;</p> <p>    <b>(5)</b> Being authorized to make or deliver a document certifying receipt of property used, or to be used, by the state relative to a state-administered health or human services program and intending to defraud the state, make or deliver such document without completely knowing that the information on the document is true;</p> <p>    <b>(6)</b> Knowingly buy, or receive as a pledge of an obligation or debt, public property from an officer or employee of the state relative to a state-administered health or human services program, who lawfully may not sell or pledge the property;</p> <p>    <b>(7)</b> 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 state under a state-administered health or human services program; or</p> <p>    <b>(8)</b> Knowingly conceal or knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to the state under a state-administered health or human services program.</p> <p><b>(b)</b> Any person who violates the provisions of subsection (a) of this section shall be liable to the state for: (1) A civil penalty of not less than five thousand five hundred dollars or more than eleven thousand dollars, or as adjusted from time to time by the federal Civil Penalties Inflation Adjustment Act of 1990, <a href="#">28 USC 2461</a>, (2) three times the amount of damages that the state sustains because of the act of that person, and (3) the costs of investigation and prosecution of such violation. Liability under this section shall be joint and several for any violation of this section committed by two or more persons.</p> <p><b>(c)</b> Notwithstanding the provisions of subsection (b) of this section concerning treble damages, if the court finds that: (1) A person committing a violation of subsection (a) of this section furnished officials of the state responsible for investigating false claims violations with all information known to such person about the violation not later than thirty days after the date on which the person first obtained the information; (2) such person fully cooperated with an investigation by the state of such violation; and (3) at the time such person furnished the state with the information about the violation, no criminal prosecution, civil action or administrative action had commenced under <a href="#">sections 4-276 to 4-280</a>, inclusive, with respect to such violation, and such person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than two times the amount of damages which the state sustains because of the act of such person. Any information furnished pursuant to this subsection shall be exempt from disclosure under <a href="#">section 1-210</a>.</p> <p><b>History:</b> <a href="#">P.A. 14-217, S. 2</a>, eff. June 13, 2014.</p> <p><b>Conn. Gen. Stat. § 17b-301 - Recovery of payment for false statement, misrepresentation or concealment.</b><br/>Any payment made by the state on behalf of an enrollee as a result of any false statement, misrepresentation or concealment of or failure to disclose income or health insurance coverage by an applicant responsible for maintaining insurance may be recovered by the state.</p> <p><b>HISTORY:</b> (October 29 Sp. Sess. P.A. 97-1, S. 13, 23.)</p> <p>Conn. Gen. Stat. § 53-440 to 445<br/><b>"Health Insurance Fraud Act".</b></p> <p><b>Conn. Gen. Stat. § 53-441 - Definitions.</b></p> <p>As used in <a href="#">sections 53-440 to 53-443</a>, inclusive:</p> |

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|                 | <p>(a) "Statement" includes but is not limited to any notice, statement, invoice, account, bill for services, explanation of services, medical opinion, test result, computer generated document, electronic transmission or other evidence of loss, injury or expense;</p> <p>(b) "Person" means any individual, corporation, limited liability company, partnership, association or any other legal entity;</p> <p>(c) "Insurer" means any insurance company, health care center, corporation, Lloyd's insurer, fraternal benefit society or any other legal entity authorized to provide health care benefits in this state, including benefits provided under health insurance, disability insurance, workers' compensation and automobile insurance or any person, partnership, association or legal entity which is self-insured and provides health care benefits to its employees or governmental entity which provides medical benefits to Medicare or Medicaid recipients.<br/><b>History:</b> ( <a href="#">P.A. 87-481, S. 2</a>; <a href="#">P.A. 93-430, S. 2</a>; <a href="#">P.A. 95-79, S. 181</a>, 189.)</p> <p><b>Conn. Gen. Stat. § 53-442 - Health insurance fraud.</b></p> <p>A person is guilty of health insurance fraud when he, with the intent to defraud or deceive any insurer, (1) presents or causes to be presented to any insurer or any agent thereof any written or oral statement as part of or in support of an application for any policy of insurance or claim for payment or other benefit from a plan providing health care benefits, whether for himself, a family member or a third party, knowing that such statement contains any false, incomplete, deceptive or misleading information concerning any fact or thing material to such claim or application, or omits information concerning any fact or thing material to such claim or application, or (2) assists, abets, solicits or conspires with another to prepare or present any written or oral statement to any insurer or any agent thereof, in connection with, or in support of, an application for any policy of insurance or claim for payment or other benefit from a plan providing health care benefits knowing that such statement contains any false, deceptive or misleading information concerning any fact or thing material to such application or claim. For purposes of this section, "misleading information" includes but is not limited to falsely representing that goods or services were medically necessary in accordance with professionally accepted standards.<br/><b>History:</b> ( <a href="#">P.A. 87-481, S. 3</a>; <a href="#">P.A. 93-430, S. 3</a>.)</p> <p><b>Conn. Gen. Stat. § 53-443 - Penalty. Order of restitution. Attorneys' fees and investigation costs included in restitution.</b></p> <p>Any person who violates any provision of <a href="#">sections 53-440</a> to <a href="#">53-443</a>, inclusive, shall be subject to the penalties for larceny under <a href="#">sections 53a-122</a> to <a href="#">53a-125b</a>, inclusive. Each act shall be considered a separate offense. In addition to any fine or term of imprisonment imposed, including any order of probation, any such person shall make restitution to an aggrieved insurer, including reasonable attorneys' fees and investigation costs.<br/><b>History:</b> ( <a href="#">P.A. 87-481, S. 4</a>; <a href="#">P.A. 93-430, S. 4</a>.)</p> <p><b>Conn. Gen. Stat. § 53-445 - Sec. 53-445. Knowledge of health insurance fraud, report to Insurance Commissioner. Independent investigation conducted. Subject to civil liability, when.</b></p> <p>(a) Any person, including an insurer, as defined in subsection (c) of <a href="#">section 53-441</a>, who has knowledge of or has reason to believe that health insurance fraud, as defined in <a href="#">section 53-442</a>, has occurred, shall provide notice and any information, evidence and documentation in the person's or its possession relative to the suspected fraud to the Insurance Commissioner.</p> <p>(b) The commissioner shall review and investigate any reports of or information received by any person regarding insurance fraud; he shall conduct an independent investigation of the suspected insurance fraud; and when he reasonably believes that a violation has occurred, he shall refer such investigation to the appropriate state agency for criminal prosecution, civil enforcement or disciplinary action. During the commissioner's investigation and prior to the referral of such investigation, the investigation and record thereof shall be confidential.</p> <p>(c) Any person, including an insurer, as defined in subsection (c) of <a href="#">section 53-441</a>, or a not-for-profit organization established to detect and prevent insurance fraud or his or its agents or employees may disclose otherwise personal or privileged information as defined in <a href="#">section 38a-976</a>, orally or in writing to another person concerning any alleged, suspected or anticipated insurance fraud as defined in <a href="#">section 53-442</a>, when such disclosure is limited to that which is reasonably necessary to detect, investigate or prevent criminal activity, fraud, material misrepresentation or material nondisclosure.</p> <p>(d) No person shall be subject to liability for libel, slander or any other civil liability in connection with the filing of reports or documents, or furnishing orally or in writing information concerning any suspected, anticipated or alleged insurance fraud, when the reports, documents or information are provided or received in accordance with the provisions of subsection (a) or (c) of this section or in accordance with an order issued by a court of competent jurisdiction to provide testimony or evidence, unless such person disclosed false information with malice or wilful intent to injure any person.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p><b>History:</b>( <a href="#">P.A. 93-430, S. 7</a>, 9; <a href="#">P.A. 00-211, S. 5</a>)</p> <p><b>Conn. Gen. Stat. § 53a-290 - "Vendor fraud" defined.</b></p> <p>A person commits vendor fraud when, with intent to defraud and acting on such person's own behalf or on behalf of an entity, such person provides goods or services to a beneficiary under <i>sections 17b-22</i>, 17b-75 to 17b-77, inclusive, 17b-79 to 17b-103, inclusive, 17b-180a, 17b-183, 17b-260 to 17b-262, inclusive, 17b-264 to 17b-285, inclusive, 17b-357 to 17b-361, inclusive, 17b-600 to 17b-604, inclusive, 17b-749, 17b-807 and 17b-808 or provides services to a recipient under Title XIX of the Social Security Act, as amended, and, (1) presents for payment any false claim for goods or services performed; (2) accepts payment for goods or services performed, which exceeds either the amounts due for goods or services performed, or the amounts authorized by law for the cost of such goods or services; (3) solicits to perform services for or sell goods to any such beneficiary, knowing that such beneficiary is not in need of such goods or services; (4) sells goods to or performs services for any such beneficiary without prior authorization by the Department of Social Services, when prior authorization is required by said department for the buying of such goods or the performance of any service; or (5) accepts from any person or source other than the state an additional compensation in excess of the amount authorized by law.</p> <p><b>HISTORY:</b> ( <a href="#">P.A. 96-169, S. 3</a>; June Sp. Sess. <a href="#">P.A. 00-2, S. 25, 53</a>; <a href="#">P.A. 05-280, S. 27</a>.)</p> <p><i>Conn. Gen. Stat. § 53a-291 - Vendor fraud in the first degree: Class B felony.</i></p> <p>(a) A person is guilty of vendor fraud in the first degree when he commits vendor fraud, as defined in <i>section 53a-290</i>, and receives payment for goods or services fraudulently provided in excess of ten thousand dollars.</p> <p>(b) Vendor fraud in the first degree is a class B felony.</p> <p><b>HISTORY:</b> ( <a href="#">P.A. 96-169, S. 4</a>.)</p> <p><i>Conn. Gen. Stat. § 53a-292 - Vendor fraud in the second degree: Class C felony.</i></p> <p>(a) A person is guilty of vendor fraud in the second degree when he commits vendor fraud, as defined in <i>section 53a-290</i>, and receives payment for goods or services fraudulently provided in excess of five thousand dollars.</p> <p>(b) Vendor fraud in the second degree is a class C felony.</p> <p><b>HISTORY:</b> ( <a href="#">P.A. 96-169, S. 5</a>.)</p> <p><i>Conn. Gen. Stat. § 53a-293 - Vendor fraud in the third degree: Class D felony.</i></p> <p>(a) A person is guilty of vendor fraud in the third degree when he commits vendor fraud, as defined in <i>section 53a-290</i>, and receives payment for goods or services fraudulently provided in excess of one thousand dollars.</p> <p>(b) Vendor fraud in the third degree is a class D felony.</p> <p><b>HISTORY:</b> ( <a href="#">P.A. 96-169, S. 6</a>.)</p> <p><i>Conn. Gen. Stat. § 53a-294 - Vendor fraud in the fourth degree: Class A misdemeanor.</i></p> <p>(a) A person is guilty of vendor fraud in the fourth degree when he commits vendor fraud, as defined in <i>section 53a-290</i>, and receives payment for goods or services fraudulently provided in excess of five hundred dollars.</p> |

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|                 | <p>(b) Vendor fraud in the fourth degree is a class A misdemeanor.</p> <p><b>HISTORY:</b> ( P.A. 96-169, S. 7.)</p> <p><i>Conn. Gen. Stat. § 53a-295 - Vendor fraud in the fifth degree: Class B misdemeanor.</i></p> <p>(a) A person is guilty of vendor fraud in the fifth degree when he commits vendor fraud, as defined in <i>section 53a-290</i>, and receives payment for goods or services fraudulently provided in excess of two hundred fifty dollars.</p> <p>(b) Vendor fraud in the fifth degree is a class B misdemeanor.</p> <p><b>HISTORY:</b> ( P.A. 96-169, S. 8.)</p> <p><b><i>Conn. Gen. Stat. § 53a-296- Sec. 53a-296. Vendor fraud in the sixth degree: Class C misdemeanor.</i></b></p> <p>(a) A person is guilty of vendor fraud in the sixth degree when he commits vendor fraud, as defined in <i>section 53a-290</i>, and receives payment for goods or services fraudulently provided in an amount of two hundred fifty dollars or less.</p> <p>(b) Vendor fraud in the sixth degree is a class C misdemeanor.</p> <p><b>HISTORY:</b> (P.A. 96-169, S. 9.)</p> <p>Regs., Conn. State Agencies § 17b-102-01<br/>Sec. 17b-102-01. Definitions</p> <p>For the purposes of <a href="#">sections 17b-102-01</a> to 17b-102-04, inclusive, the following definitions shall apply:</p> <p>(1) "Commissioner" means the chief executive officer of the department appointed pursuant to subsection (a) of <a href="#">section 17b-1 of the general statutes</a>.</p> <p>(2) "Department" means the Department of Social Services or its agent.</p> <p>(3) "Fraud" means, with intent to defraud the department or a program under the jurisdiction of the department by:</p> <p>(A) presenting for payment any false claim for goods or services performed;</p> <p>(B) or accepting payment for goods or services performed, which exceeds either the amounts due for goods or services performed, or the amounts authorized by law for the cost of such goods or services;</p> <p>(C) or soliciting to perform services for or sell goods to any beneficiary, knowing that such beneficiary is not in need of such goods or services;</p> <p>(D) or selling goods to or performing services for any beneficiary without prior authorization by the department, when prior authorization is required by said department for the buying of such goods or the performance of any service;</p> <p>(E) or accepting from any person or source other than the state an additional compensation in excess of the amount authorized by law.</p> <p>(4) "Vendor" means the definition contained in <a href="#">section 17-83k-1 of the Regulations of Connecticut State Agencies</a>.</p> |

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|                 | <p>New regulation published in Conn. Law Journal May 26, 1998, effective April 2, 1998.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                 | <p>Conn. Gen. Stat. § 4-277 - <b>Civil action by individual. Consent for withdrawal. Manner of service. Complaint under seal. Intervention by Attorney General.</b>2014 Ct. ALS 217; 2014 <a href="https://www.cga.ct.gov/current/pub/chap_055e.htm#sec_4-277">https://www.cga.ct.gov/current/pub/chap_055e.htm#sec_4-277</a></p> <p>(a) A person may bring a civil action in the superior court for the judicial district of Hartford against any person who violates subsection (a) of <a href="#">section 4-275</a>, for the person who brings the action and for the state. Such civil action shall be brought in the name of the state. The action may thereafter be withdrawn only if the court and the Attorney General give written consent to the withdrawing of such action and their reasons for consenting.</p> <p>(b) A copy of the complaint and written disclosure of substantially all material evidence and information the person who brings such action possesses shall be served on the state by serving the Attorney General in the manner prescribed in <a href="#">section 52-64</a>. 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 court, upon motion of the Attorney General, may, for good cause shown, extend the time during which the complaint remains under seal. Such motion may be supported by affidavits or other submissions in camera. Prior to the expiration of the time during which the complaint remains under seal, the Attorney General shall: (1) Proceed with the action in which case the action shall be conducted by the Attorney General, or (2) notify the court that the Attorney General declines to take over the action in which case the person bringing the action shall have the right to conduct the action.</p> <p>(c) If the court orders the complaint to be unsealed and served, the court shall issue an appropriate order of notice requiring the same notice that is ordinarily required to commence a civil action. The defendant shall not be required to respond to any complaint filed under this section until thirty days after the complaint is served upon the defendant.</p> <p>(d) If 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.</p> <p><b>History:</b> <a href="#">P.A. 14-217, S. 4</a>, eff. June 13, 2014.</p> <p><b>Regs., Conn. State Agencies § 17b-102-02 - Eligibility</b></p> <p>Payment of a financial incentive shall be provided to any person reporting vendor fraud in connection with any program under the jurisdiction of the department subject to the payment conditions and limitations which apply to this financial incentive pursuant to <a href="#">section 17b-102 of the general statutes</a> and section 17b-102-01 to 17b-102-04, inclusive, of the Regulations of Connecticut State Agencies.</p> <p><b>Regs., Conn. State Agencies § 17b-102-03 - Payment</b></p> <p>(a) The commissioner shall be the sole determiner of whether the person is entitled to the financial incentive.</p> <p>(b) The payment shall not exceed 15% of the amounts recovered by the state that are directly attributed to the person's report.</p> <p>(c) The commissioner shall be the sole determiner of the amount of the incentive.</p> <p>New regulation published in Conn. Law Journal May 26, 1998, effective April 2, 1998.</p> <p><b>Regs., Conn. State Agencies § 17b-102-04 - Payment limitations</b></p> <p>(a) The department shall pay a financial incentive when:</p> <p>(1) the person reporting has not materially participated in or benefited from any of the fraudulent activity being reported; and</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p>(2) a direct correlation exists between the information reported and amounts recovered by the state as a result of such report; and</p> <p>(3) the person reporting submits a claim for the financial incentive, in writing, on a form specified by the department and files it within six months from the date of when the vendor fraud was first reported;</p> <p>(b) The department shall not pay a financial incentive when:</p> <p>(1) the person reporting requests anonymity; or</p> <p>(2) a claim is made regarding a case where the department or other state or federal agency has initiated an audit, investigation or similar proceedings prior to the person reporting the fraud; or</p> <p>(3) the person reporting or a member of his immediate family is employed in a job which requires auditing, investigation or enforcement involving the programs under the jurisdiction of the department.</p> <p>New regulation published in Conn. Law Journal May 26, 1998, effective April 2, 1998.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                 | <p><b>Whistle-blower Protections</b></p> <p><b>Connecticut Attorney General's Office</b><br/><b>Whistleblower Unit</b></p> <p><a href="https://portal.ct.gov/AG/Sections/Heath-Care-Fraud-Whistleblower-Health-Care-Advocacy/Whistleblower-Unit">https://portal.ct.gov/AG/Sections/Heath-Care-Fraud-Whistleblower-Health-Care-Advocacy/Whistleblower-Unit</a></p> <p>Conn. Gen. Stat. § 4-284 - Discrimination in employment prohibited. Remedies. Attorneys' fees and costs.<br/><b><a href="https://www.cga.ct.gov/current/pub/chap_055e.htm#sec_4-284">https://www.cga.ct.gov/current/pub/chap_055e.htm#sec_4-284</a></b></p> <p><b>(a)</b> 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 <a href="#">sections 4-276</a> to <a href="#">4-280</a>, inclusive, or other efforts to stop one or more violations of <a href="#">section 4-275</a>.</p> <p><b>(b)</b> Relief under subsection (a) of this section 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 attorneys' fees. An action under this section may be brought in the Superior Court for the relief provided in this section.</p> <p><b>(c)</b> A civil action under this section may not be brought more than three years after the date when the retaliation occurred.</p> <p><b>History:</b> <a href="#">P.A. 14-217, S. 11</a>, eff. June 13, 2014.d.</p> <p>Conn. Gen. Stat. §53-445<br/><b><i>Knowledge of health insurance fraud, report to Insurance Commissioner. Independent investigation conducted. Subject to civil liability, when.</i></b></p> <p>(a) Any person, including an insurer, as defined in subsection (c) of <a href="#">section 53-441</a>, who has knowledge of or has reason to believe that health insurance fraud, as defined in <a href="#">section 53-442</a>, has occurred, shall provide notice and any information, evidence and documentation in the person's or its possession relative to the suspected fraud to the Insurance Commissioner.</p> <p>(b) The commissioner shall review and investigate any reports of or information received by any person regarding insurance fraud; he shall conduct an independent investigation of the suspected insurance fraud; and when he reasonably believes that a violation has occurred, he shall refer such investigation to the appropriate state agency for criminal prosecution, civil enforcement or disciplinary action. During the commissioner's investigation and prior to the referral of such investigation, the investigation and record thereof shall be confidential.</p> <p>(c) Any person, including an insurer, as defined in subsection (c) of <a href="#">section 53-441</a>, or a not-for-profit organization established to detect and prevent insurance fraud or his or its agents or employees may disclose otherwise personal or privileged information as defined in <a href="#">section 38a-976</a>, orally or in writing to another person concerning any alleged, suspected or anticipated insurance fraud as defined in <a href="#">section 53-442</a>, when such disclosure is</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>limited to that which is reasonably necessary to detect, investigate or prevent criminal activity, fraud, material misrepresentation or material nondisclosure.</p> <p>(d) No person shall be subject to liability for libel, slander or any other civil liability in connection with the filing of reports or documents, or furnishing orally or in writing information concerning any suspected, anticipated or alleged insurance fraud, when the reports, documents or information are provided or received in accordance with the provisions of subsection (a) or (c) of this section or in accordance with an order issued by a court of competent jurisdiction to provide testimony or evidence, unless such person disclosed false information with malice or wilful intent to injure any person.</p> <p><b>History:</b> ( <a href="#">P.A. 93-430, S. 7</a>; 9; <a href="#">P.A. 00-211, S. 5</a>.)</p> <p><b>Sec. 4-61dd. Whistle-blowing. Disclosure of information to Auditors of Public Accounts. Investigation by Attorney General. Rejection of complaint. Complaints re retaliatory personnel actions. Report to General Assembly. Large state contractors. Posting of notice. Definitions. State shellfish grounds lessees.</b></p> <p><b>(a)</b> Any person having knowledge of any matter involving corruption, unethical practices, violation of state laws or regulations, mismanagement, gross waste of funds, abuse of authority or danger to the public safety occurring in any state department or agency or any quasi-public agency, as defined in <a href="#">section 1-120</a>, or any person having knowledge of any matter involving corruption, violation of state or federal laws or regulations, gross waste of funds, abuse of authority or danger to the public safety occurring in any large state contract, may transmit all facts and information in such person's possession concerning such matter to the Auditors of Public Accounts. The Auditors of Public Accounts shall review such matter and report their findings and any recommendations to the Attorney General. Upon receiving such a report, the Attorney General shall make such investigation as the Attorney General deems proper regarding such report and any other information that may be reasonably derived from such report. Prior to conducting an investigation of any information that may be reasonably derived from such report, the Attorney General shall consult with the Auditors of Public Accounts concerning the relationship of such additional information to the report that has been issued pursuant to this subsection. Any such subsequent investigation deemed appropriate by the Attorney General shall only be conducted with the concurrence and assistance of the Auditors of Public Accounts. At the request of the Attorney General or on their own initiative, the auditors shall assist in the investigation.</p> <p><b>(b) (1)</b> The Auditors of Public Accounts may reject any complaint received pursuant to subsection (a) of this section if the Auditors of Public Accounts determine one or more of the following:</p> <ul style="list-style-type: none"><li><b>(A)</b> There are other available remedies that the complainant can reasonably be expected to pursue;</li><li><b>(B)</b> The complaint is better suited for investigation or enforcement by another state agency;</li><li><b>(C)</b> The complaint is trivial, frivolous, vexatious or not made in good faith;</li><li><b>(D)</b> Other complaints have greater priority in terms of serving the public good;</li><li><b>(E)</b> The complaint is not timely or is too long delayed to justify further investigation; or</li><li><b>(F)</b> The complaint could be handled more appropriately as part of an ongoing or scheduled regular audit.</li></ul> <p><b>(2)</b> If the Auditors of Public Accounts reject a complaint pursuant to subdivision (1) of this subsection, the Auditors of Public Accounts shall provide a report to the Attorney General setting out the basis for the rejection.</p> <p><b>(3)</b> If at any time the Auditors of Public Accounts determine that a complaint is more appropriately investigated by another state agency, the Auditors of Public Accounts shall refer the complaint to such agency. The investigating agency shall provide a status report regarding the referred complaint to the Auditors of Public Accounts upon request.</p> <p><b>(c)</b> Notwithstanding the provisions of <a href="#">section 12-15</a>, the Commissioner of Revenue Services may, upon written request by the Auditors of Public Accounts, disclose return or return information, as defined in <a href="#">section 12-15</a>, to the Auditors of Public Accounts for purposes of preparing a report under subsection (a) or (b) of this section. Such return or return information shall not be published in any report prepared in accordance with subsection (a) or (b) of this section, and shall not otherwise be redisclosed, except that such information may be redisclosed to the Attorney General for purposes of an investigation authorized by subsection (a) of this section. Any person who violates the provisions of this subsection shall be subject to the provisions of subsection (g) of <a href="#">section 12-15</a>.</p> <p><b>(d)</b> The Attorney General may summon witnesses, require the production of any necessary books, papers or other documents and administer oaths to witnesses, where necessary, for the purpose of an investigation</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>pursuant to this section or for the purpose of investigating a suspected violation of subsection (a) of <a href="#">section 4-275</a> until such time as the Attorney General files a civil action pursuant to <a href="#">section 4-276</a>. Upon the conclusion of the investigation, the Attorney General shall where necessary, report any findings to the Governor, or in matters involving criminal activity, to the Chief State's Attorney. In addition to the exempt records provision of <a href="#">section 1-210</a>, the Auditors of Public Accounts and the Attorney General shall not, after receipt of any information from a person under the provisions of this section or <a href="#">sections 4-276</a> to <a href="#">4-280</a>, inclusive, disclose the identity of such person without such person's consent unless the Auditors of Public Accounts or the Attorney General determines that such disclosure is unavoidable, and may withhold records of such investigation, during the pendency of the investigation.</p> <p><b>(e) (1)</b> No state officer or employee, as defined in <a href="#">section 4-141</a>, no quasi-public agency officer or employee, no officer or employee of a large state contractor and no appointing authority shall take or threaten to take any personnel action against any state or quasi-public agency employee or any employee of a large state contractor in retaliation for (A) such employee's or contractor's disclosure of information to (i) an employee of the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of this section; (ii) an employee of the state agency or quasi-public agency where such state officer or employee is employed; (iii) an employee of a state agency pursuant to a mandated reporter statute or pursuant to subsection (b) of <a href="#">section 17a-28</a>; or (iv) in the case of a large state contractor, an employee of the contracting state agency concerning information involving the large state contract; or (B) such employee's testimony or assistance in any proceeding under this section.</p> <p><b>(2) (A)</b> Not later than ninety days after learning of the specific incident giving rise to a claim that a personnel action has been threatened or has occurred in violation of subdivision (1) of this subsection, a state or quasi-public agency employee, an employee of a large state contractor or the employee's attorney may file a complaint against the state agency, quasi-public agency, large state contractor or appointing authority concerning such personnel action with the Chief Human Rights Referee designated under <a href="#">section 46a-57</a>. Such complaint may be amended if an additional incident giving rise to a claim under this subdivision occurs subsequent to the filing of the original complaint. The Chief Human Rights Referee shall assign the complaint to a human rights referee appointed under <a href="#">section 46a-57</a>, who shall conduct a hearing and issue a decision concerning whether the officer or employee taking or threatening to take the personnel action violated any provision of this section. The human rights referee may order a state agency or quasi-public agency to produce (i) an employee of such agency or quasi-public agency to testify as a witness in any proceeding under this subdivision, or (ii) books, papers or other documents relevant to the complaint, without issuing a subpoena. If such agency or quasi-public agency fails to produce such witness, books, papers or documents, not later than thirty days after such order, the human rights referee may consider such failure as supporting evidence for the complainant. If, after the hearing, the human rights referee finds a violation, the referee may award the aggrieved employee reinstatement to the employee's former position, back pay and reestablishment of any employee benefits for which the employee would otherwise have been eligible if such violation had not occurred, reasonable attorneys' fees, and any other damages. For the purposes of this subsection, such human rights referee shall act as an independent hearing officer. The decision of a human rights referee under this subsection may be appealed by any person who was a party at such hearing, in accordance with the provisions of <a href="#">section 4-183</a>.</p> <p><b>(B)</b> The Chief Human Rights Referee shall adopt regulations, in accordance with the provisions of chapter 54, establishing the procedure for filing complaints and noticing and conducting hearings under subparagraph (A) of this subdivision.</p> <p><b>(3)</b> As an alternative to the provisions of subdivision (2) of this subsection: (A) A state or quasi-public agency employee who alleges that a personnel action has been threatened or taken may file an appeal not later than ninety days after learning of the specific incident giving rise to such claim with the Employees' Review Board under <a href="#">section 5-202</a>, or, in the case of a state or quasi-public agency employee covered by a collective bargaining contract, in accordance with the procedure provided by such contract; or (B) an employee of a large state contractor alleging that such action has been threatened or taken may, after exhausting all available administrative remedies, bring a civil action in accordance with the provisions of subsection (c) of <a href="#">section 31-51m</a>.</p> <p><b>(4)</b> In any proceeding under subdivision (2) or (3) of this subsection concerning a personnel action taken or threatened against any state or quasi-public agency employee or any employee of a large state contractor, which personnel action occurs not later than two years after the employee first transmits facts and information concerning a matter under subsection (a) of this section or discloses information under subdivision (1) of this subsection to the Auditors of Public Accounts, the Attorney General or an employee of a state agency or quasi-public agency, as applicable, there shall be a rebuttable presumption that the personnel action is in retaliation for the action taken by the employee under subsection (a) of this section or subdivision (1) of this subsection.</p> <p><b>(5)</b> If a state officer or employee, as defined in <a href="#">section 4-141</a>, a quasi-public agency officer or employee, an officer or employee of a large state contractor or an appointing authority takes or threatens to take any action to impede, fail to renew or cancel a contract between a state agency and a large state contractor, or between a large state contractor and its subcontractor, in retaliation for the disclosure of information pursuant to subsection (a) of this section or subdivision (1) of this subsection to any agency listed in subdivision (1) of this subsection, such affected agency, contractor or subcontractor may, not later than ninety days after learning of such action, threat or failure to renew, bring a civil action in the superior court for the judicial district of Hartford to recover damages, attorney's fees and costs.</p> <p><b>(f)</b> Any employee of a state or quasi-public agency or large state contractor, who is found by the Auditors of Public Accounts, the Attorney General, a human rights referee or the Employees' Review Board to have knowingly and maliciously made false charges under subsection (a) of this section, shall be subject to disciplinary action by such employee's appointing authority up to and including dismissal. In the case of a state or quasi-public agency employee, such action shall be subject to appeal to the Employees' Review Board in accordance with <a href="#">section 5-202</a>, or in the case of state or quasi-public agency employees included in collective bargaining contracts, the procedure provided by such contracts.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>(g)</b> On or before September first, annually, the Auditors of Public Accounts shall submit, in accordance with the provisions of <a href="#">section 11-4a</a>, to the clerk of each house of the General Assembly a report indicating the number of matters for which facts and information were transmitted to the auditors pursuant to this section during the preceding state fiscal year and the disposition of each such matter.</p> <p><b>(h)</b> Each contract between a state or quasi-public agency and a large state contractor shall provide that, if an officer, employee or appointing authority of a large state contractor takes or threatens to take any personnel action against any employee of the contractor in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) or subdivision (1) of subsection (e) of this section, the contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the state or quasi-public agency may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.</p> <p><b>(i)</b> Each state agency or quasi-public agency shall post a notice of the provisions of this section relating to state employees and quasi-public agency employees in a conspicuous place that is readily available for viewing by employees of such agency or quasi-public agency. Each large state contractor shall post a notice of the provisions of this section relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the contractor.</p> <p><b>(j)</b> No person who, in good faith, discloses information in accordance with the provisions of this section shall be liable for any civil damages resulting from such good faith disclosure.</p> <p><b>(k)</b> As used in this section:</p> <p style="padding-left: 40px;"><b>(1)</b> "Large state contract" means a contract between an entity and a state or quasi-public agency, having a value of five million dollars or more; and</p> <p style="padding-left: 40px;"><b>(2)</b> "Large state contractor" means an entity that has entered into a large state contract with a state or quasi-public agency.</p> <p><b>(l)</b> <b>(1)</b> No officer or employee of a state shellfish grounds lessee shall take or threaten to take any personnel action against any employee of a state shellfish grounds lessee in retaliation for (A) such employee's disclosure of information to an employee of the leasing agency concerning information involving the state shellfish grounds lease, or (B) such employee's testimony or assistance in any proceeding under this section.</p> <p style="padding-left: 40px;"><b>(2)</b> <b>(A)</b> Not later than ninety days after learning of the specific incident giving rise to a claim that a personnel action has been threatened or has occurred in violation of subdivision (1) of this subsection, an employee of a state shellfish grounds lessee or the employee's attorney may file a complaint against the state shellfish grounds lessee concerning such personnel action with the Chief Human Rights Referee designated under <a href="#">section 46a-57</a>. Such complaint may be amended if an additional incident giving rise to a claim under this subdivision occurs subsequent to the filing of the original complaint. The Chief Human Rights Referee shall assign the complaint to a human rights referee appointed under <a href="#">section 46a-57</a>, who shall conduct a hearing and issue a decision concerning whether the officer or employee taking or threatening to take the personnel action violated any provision of this subsection. The human rights referee may order a state shellfish grounds lessee to produce (i) an employee of such lessee to testify as a witness in any proceeding under this subdivision, or (ii) books, papers or other documents relevant to the complaint, without issuing a subpoena. If such state shellfish grounds lessee fails to produce such witness, books, papers or documents, not later than thirty days after such order, the human rights referee may consider such failure as supporting evidence for the complainant. If, after the hearing, the human rights referee finds a violation, the referee may award the aggrieved employee reinstatement to the employee's former position, back pay and reestablishment of any employee benefits for which the employee would otherwise have been eligible if such violation had not occurred, reasonable attorneys' fees and any other damages. For the purposes of this subsection, such human rights referee shall act as an independent hearing officer. The decision of a human rights referee under this subsection may be appealed by any person who was a party at such hearing, in accordance with the provisions of <a href="#">section 4-183</a>.</p> <p style="padding-left: 40px;"><b>(B)</b> The Chief Human Rights Referee shall adopt regulations, in accordance with the provisions of chapter 54, establishing the procedure for filing complaints and noticing and conducting hearings under subparagraph (A) of this subdivision.</p> <p style="padding-left: 40px;"><b>(3)</b> As an alternative to the provisions of subdivision (2) of this subsection, an employee of a state shellfish grounds lessee who alleges that a personnel action has been threatened or taken may, after exhausting all available administrative remedies, bring a civil action in accordance with the provisions of subsection (c) of <a href="#">section 31-51m</a>.</p> <p style="padding-left: 40px;"><b>(4)</b> In any proceeding under subdivision (2) or (3) of this subsection concerning a personnel action taken or threatened against any employee of a state shellfish grounds lessee, which personnel action occurs not later than two years after the employee first transmits facts and information to an employee of the leasing agency concerning the state shellfish grounds lease, there shall be a rebuttable presumption that the personnel action is</p> |



| State /Citation                                                                                                                            | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                                                                                                                                            | <p>in retaliation for the action taken by the employee under subdivision (1) of this subsection.</p> <p>📌<b>History:</b> P.A. 79-599, S. 1, 2; P.A. 83-232; P.A. 85-559, S. 5; <a href="#">P.A. 87-442, S. 1</a>, 8; <a href="#">P.A. 89-81, S. 3</a>; <a href="#">P.A. 97-55</a>; <a href="#">P.A. 98-191, S. 1</a>, 2; <a href="#">P.A. 02-91, S. 1</a>; <a href="#">P.A. 04-58, S. 1</a>, 2; <a href="#">P.A. 05-287, S. 47</a>; <a href="#">P.A. 06-196, S. 26</a>; <a href="#">P.A. 09-185, S. 2</a>; Sept. Sp. Sess. <a href="#">P.A. 09-5, S. 16</a>; <a href="#">P.A. 11-48, S. 17</a>; <a href="#">P.A. 14-217, S. 17</a>, eff. June 13, 2014; <a href="#">P.A. 14-227, S. 1</a>, eff. June 13, 2014; Sp. Sess. <a href="#">P.A. 15-5, S. 117</a>, eff. July 1, 2015.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p><i>Delaware/</i></p> <p>6 Del. C. § 1201, <i>et seq.</i></p> <p>31 Del. C. § 1001, <i>et seq.</i></p> <p>19 Del. C. § 1701, et seq.</p> | <div><div>Criminal and Civil Penalties for False Claims and Statements</div><div><div>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</div><div><a href="https://attorneygeneral.delaware.gov/fraud/mfca/">https://attorneygeneral.delaware.gov/fraud/mfca/</a><br/><a href="https://www.dhss.delaware.gov/dms/arms/reportfraud.html">https://www.dhss.delaware.gov/dms/arms/reportfraud.html</a></div></div><div><div>DELAWARE FALSE CLAIMS AND REPORTING ACT</div><div>Del. Code Ann. tit. 6 § 1201 et. seq. (Commerce and Trade)<br/><a href="http://delcode.delaware.gov/title6/c012/index.shtml#P12_179">http://delcode.delaware.gov/title6/c012/index.shtml#P12_179</a></div><div>Del. Code Ann. tit. 31 § 1003 (Welfare)<br/><a href="http://delcode.delaware.gov/title31/c010/index.shtml#P34_1332">http://delcode.delaware.gov/title31/c010/index.shtml#P34_1332</a></div><div>Del. Code Ann. tit. 31 § 1004 (Welfare)<br/><a href="http://delcode.delaware.gov/title31/c010/index.shtml#P43_1860">http://delcode.delaware.gov/title31/c010/index.shtml#P43_1860</a></div><div>Del. Code Ann. tit. 31, § 1006<br/><a href="http://delcode.delaware.gov/title31/c010/index.shtml#P79_5843">http://delcode.delaware.gov/title31/c010/index.shtml#P79_5843</a></div><div>Del. Code Ann. tit. 11 § 913A (Crimes and Criminal Procedure)<br/><a href="http://delcode.delaware.gov/title11/c005/sc03/index.shtml#P1421_111458">http://delcode.delaware.gov/title11/c005/sc03/index.shtml#P1421_111458</a></div><div>18 Del. C. § 2401 et seq. – Insurance Fraud<br/><a href="http://delcode.delaware.gov/title18/c024/index.shtml">http://delcode.delaware.gov/title18/c024/index.shtml</a></div><div>31 Del. C. § 1001 et seq. – Fraudulent Acts<br/><a href="http://delcode.delaware.gov/title31/c010/index.shtml">http://delcode.delaware.gov/title31/c010/index.shtml</a></div></div><div><div><a href="#">Delaware Code Annotated</a></div><div><a href="#">TITLE 11. CRIMES AND CRIMINAL PROCEDURE</a></div><div><a href="#">PART I. DELAWARE CRIMINAL CODE</a></div><div><a href="#">CHAPTER 5. SPECIFIC OFFENSES</a></div><div><a href="#">SUBCHAPTER III. OFFENSES INVOLVING PROPERTY</a></div><div><a href="#">SUBPART I. OTHER FRAUDS AND CHEATS</a></div></div><div><div>11 Del. C. § 913 - Insurance fraud; class G felony</div><div>(a) A person is guilty of insurance fraud when, with the intent to injure, defraud or deceive any insurer the person:</div></div></div> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(1) Presents or causes to be presented to any insurer, any written or oral statement including computer-generated documents as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains false, incomplete or misleading information concerning any fact or thing material to such claim; or</p> <p>(2) Assists, abets, solicits or conspires with another to prepare or make any written or oral statement that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete or misleading information concerning any fact or thing material to such claim.</p> <p>Insurance fraud is a class G felony.</p> <p>(b) All insurance claims forms shall contain a statement that clearly states in substance the following:</p> <p>"Any person who knowingly, and with intent to injure, defraud or deceive any insurer, files a statement of claim containing any false, incomplete or misleading information is guilty of a felony."</p> <p>The lack of such a statement shall not constitute a defense against prosecution under this section.</p> <p>(c) For the purposes of this section, "statement" includes, but is not limited to, a police report, 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, X rays, test result or other evidence of loss, injury or expense; "insurer" shall include, but is not limited to, a health service corporation or health maintenance organization; and "insurance policy" shall include, but is not limited to, the subscriber and members contracts of health service corporations and health maintenance organizations.</p> <p>History - 64 Del. Laws, c. 194; <a href="#">67 Del. Laws, c. 130</a>, § 8; <a href="#">70 Del. Laws, c. 186</a>, § 1.</p> <p><b>11 Del. C. § 913A. Health-care fraud; class B felony; class D felony; class G felony</b></p> <p>(a) A person is guilty of health-care fraud when the person knowingly:</p> <p>(1) Presents or causes to be presented any fraudulent health-care claim to any health-care benefit program; or</p> <p>(2) Engages in a pattern of presenting or causing to be presented fraudulent health-care claims to any health-care benefit program.</p> <p>(b) For the purpose of this section:</p> <p>(1) "Fraudulent health-care claim" means any statement, whether written, oral or in any other form, which is made as part of or in support of a claim or request for payment from any health-care benefit program when such statement knowingly contains false, incomplete or misleading information concerning any fact or thing material to such claim.</p> <p>(2) "Health-care benefit program" means any plan or contract, whether public or private, under which any medical benefit, equipment, medication or service is provided to any individual. "Health-care benefit program" also includes any individual or entity who is providing a medical benefit, equipment, medication or service for which payment may be made under a plan or contract for the provision of such benefits or services.</p> <p>(3) "Health-care professional," "health-care practice," "health-care facility" or "health-care services" includes but is not limited to any person who or entity which, for payment, practices in or employs the procedures of medicine, surgery, chiropractic, podiatry, dentistry, optometry, psychology, social work, pharmacy, nursing, physical therapy or any other field concerned with the maintenance or restoration of the health of the body or mind.</p> <p>(4) "Health-care provider" means any health-care professional, an owner or operator of a health-care practice or facility, any person who creates the impression that the person or the person's practice or facility can provide health-care services, or any person employed or acting on behalf of any of the aforementioned persons.</p> <p>(5) "Pattern of presenting or causing to be presented" means 3 or more instances of conduct that constitute presenting or causing to be presented fraudulent health-care claims.</p> <p>(c)</p> <p>(1) Except as provided in paragraphs (2) and (3) of this subsection, health-care fraud is a class G felony.</p> <p>(2) Health-care fraud is a class D felony if the elements of subsection (a) of this section are met and if:</p> <p>a. The intended loss to the health-care benefit program is more than \$ 50,000 but less than \$ 100,000;</p> <p>b. The offender is a health-care provider at the time of the offense or offenses; or,</p> <p>c. The conduct constitutes a pattern of presenting or causing to be presented fraudulent health-care claims.</p> <p>(3) Health-care fraud is a class B felony if the elements of subsection (a) of this section are met and if:</p> <p>a. The intended loss to the health-care benefit program is \$ 100,000 or more; or</p> <p>b. The offender is a health-care provider at the time of the offense or offenses and the conduct constitutes a pattern of presenting or causing to be presented fraudulent health-care claims.</p> <p>(4) In addition to the penalties otherwise authorized by this subsection, a person convicted under this section may be subject to a fine of up to 5 times the pecuniary benefit obtained or sought to be obtained through the person's violation of this section.</p> <p>(d) A conviction is not required for an act of presenting or causing presentation of a fraudulent health-care claim to be used in prosecution of a matter under this section, including an act used as proof of a pattern as defined in paragraph (b)(3) of this section. A conviction for any act of presenting or causing presentation of fraudulent health-care claims, including one which may be relied upon to establish a pattern of presenting or causing presentation of a fraudulent health-care claim, does not preclude prosecution under this section. Prosecution under this section does not preclude prosecution under any other section of the Code.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p><i>History - <a href="#">72 Del. Laws, c. 337, § 1</a>; <a href="#">70 Del. Laws, c. 186, § 1</a>; <a href="#">78 Del. Laws, c. 353, §§ 3-5</a>.</i></p> <hr/> <p><i><a href="#">Delaware Code Annotated</a></i><br/><i><a href="#">TITLE 11. CRIMES AND CRIMINAL PROCEDURE</a></i><br/><i><a href="#">PART I. DELAWARE CRIMINAL CODE</a></i><br/><i><a href="#">CHAPTER 5. SPECIFIC OFFENSES</a></i><br/><i><a href="#">SUBCHAPTER VI. OFFENSES AGAINST PUBLIC ADMINISTRATION</a></i><br/><i><a href="#">SUBPART B. ABUSE OF OFFICE</a></i></p> <p>11 Del. C. § 1211- Official misconduct; class A misdemeanor</p> <hr/> <p>A public servant is guilty of official misconduct when, intending to obtain a personal benefit or to cause harm to another person:</p> <ul style="list-style-type: none"><li>(1) The public servant commits an act constituting an unauthorized exercise of official functions, knowing that the act is unauthorized; or</li><li>(2) The public servant knowingly refrains from performing a duty which is imposed by law or is clearly inherent in the nature of the office; or</li><li>(3) The public servant performs official functions in a way intended to benefit the public servant's own property or financial interests under circumstances in which the public servant's actions would not have been reasonably justified in consideration of the factors which ought to have been taken into account in performing official functions; or</li><li>(4) The public servant knowingly performs official functions in a way intended to practice discrimination on the basis of race, creed, color, sex, age, handicapped status or national origin.</li></ul> <p>Official misconduct is a class A misdemeanor.</p> <p>History - 11 Del. C. 1953, § 1211; 58 Del. Laws, c. 497, § 1; 61 Del. Laws, c. 327, § 1; 64 Del. Laws, c. 48, § 1; <a href="#">67 Del. Laws, c. 130, § 8</a>; <a href="#">70 Del. Laws, c. 186</a></p>                                                                                                       |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>Del. Code Ann. tit. 6 § 1201 et. seq. (Commerce and Trade)</b><br/><a href="http://delcode.delaware.gov/title6/c012/index.shtml/#P12_179">http://delcode.delaware.gov/title6/c012/index.shtml/#P12_179</a></p> <p>§ 1203. Civil actions for false claims</p> <p>(a) <i>Responsibilities of the Attorney General.</i> -- The Attorney General shall diligently investigate suspected violations under this chapter. If the Attorney General finds that a person has violated or is violating the provisions of this chapter, the Attorney General may bring a civil action under this section against the person.</p> <p>(b) <i>Private actions.</i></p> <p>(1) A private civil action may be brought by any person or labor organization as defined by <a href="#">§ 1107A(d) of Title 19</a> (hereinafter "private party" or "party") for a violation of this chapter on behalf of the party bringing suit and for the government. The action shall be brought in the name of the government. The action may be dismissed only if the court and the Department of Justice give written consent to the dismissal and their reasons for consenting.</p> <p>(2) A copy of the complaint and written disclosure of substantially all material evidence and information the private party possesses shall be served on the Department of Justice pursuant to Rules 4 and 5 of the Superior Court Civil Rules. The complaint shall be filed in camera and shall remain under seal for at least 60 days. The complaint shall not be served on the defendant until the expiration of 60 days or any extension approved under paragraph (b)(3) of this section. Within 60 days after receiving a copy of the complaint, the Department of Justice shall conduct an investigation of the factual allegations and legal contentions made in the complaint. The Department of Justice may elect to intervene and proceed with the action within 60 days after it receives the complaint, the material evidence and information.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(3) The Department of Justice may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (b)(2) of this section. Any such motion 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 Superior Court Civil Rules.</p> <p>(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (b)(3) of this section, or within 20 days of being notified by the court that the seal has expired, the Department of Justice shall:</p> <p class="list-item-l1">a. Proceed with the action, in which case the action shall be conducted by the Department of Justice; or</p> <p class="list-item-l1">b. Notify the court that it declines to take over the action, in which case the private party bringing the action shall have the right to conduct the action.</p> <p>(5) When a party brings an action under this subsection, no party other than the Department of Justice may intervene or bring a related action based on the facts underlying the pending action.</p> <p><b>HISTORY:</b> <a href="#">72 Del. Laws, c. 370</a>, § 1; <a href="#">77 Del. Laws, c. 166</a>, §§ 7-12; <a href="#">79 Del. Laws, c. 141</a>, § 1.</p> <p>Section 1205. <b>Award to Qui Tam plaintiff.</b></p> <p>(a) If the Department of Justice proceeds with an action brought by a party under § 1203(b) of this title, such party shall, subject to the second sentence of this subsection, 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 party 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 party bringing the action) relating to allegations or transactions in a criminal, civil or administrative hearing, 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 party bringing the action in advancing the case to litigation. Any payment to a party under the first or second sentence of this paragraph shall be made from the proceeds. Any such party shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. In determining the amount of reasonable attorneys' fees and costs, the court shall consider, without limitation, whether such fees and costs were necessary to the prosecution of the action, were incurred for activities which were duplicative of the activities of the Department of Justice 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.</p> <p>(b) If the Department of Justice does not proceed with an action under this chapter, the party 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 party shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. In determining the amount of reasonable attorneys' fees and costs, the court shall consider, without limitation, 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.</p> <p>(c) Whether or not the Department of Justice proceeds with the action, if the court finds that the action was brought by a party 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 which the party would otherwise receive under subsection (a) or (b) of this section, taking into account the role of that party in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the party bringing the action is convicted of criminal conduct arising from that party's own role in the violation of this chapter, that party 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 Department of Justice to continue the action on behalf of the government.</p> <p>(d) If the Department of Justice 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.</p> <p><b>HISTORY:</b> <a href="#">72 Del. Laws, c. 370</a>, § 1; <a href="#">70 Del. Laws, c. 186</a>, § 1; <a href="#">77 Del. Laws, c. 166</a>, §§ 19-22.</p> |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>Del. Code Ann. tit. 19 § 1701 et. seq. (Labor) – Delaware Whistleblower Protection Act</b></p> <p><a href="http://delcode.delaware.gov/title19/c017/index.shtml#P11_107">http://delcode.delaware.gov/title19/c017/index.shtml#P11_107</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   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| State /Citation                                                                                                                                                 | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                                                                                                                                                                 | <p><b>Del. Code Ann. tit. 6 § 1201 et. seq. (Commerce and Trade)</b><br/><a href="http://delcode.delaware.gov/title6/c012/index.shtml#P12_179">http://delcode.delaware.gov/title6/c012/index.shtml#P12_179</a></p> <p><b>§ 1208. Employee protection</b><br/><a href="http://delcode.delaware.gov/title6/c012/index.shtml#1208">http://delcode.delaware.gov/title6/c012/index.shtml#1208</a></p> <p>(a) 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 chapter or other efforts to stop 1 or more violations of this chapter.</p> <p>Such relief 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 Superior Court of the State of Delaware in and for the county where the violation is alleged to have occurred. A civil action under this subsection may not be brought more than 3 years after the date when the alleged retaliation occurred.</p> <p>(b) It shall be the duty of every employer of more than 15 employees to post and maintain in a place accessible to its employees and where they normally pass a summary of this chapter upon request and without charge. Such summaries shall be provided by the Delaware Department of Justice to the Delaware Department of Labor for distribution. As an alternative to posting, such employer may establish written policies for all employees that provide an explanation of state and federal False Claims Act [this chapter and <a href="#">31 U.S.C. § 3729</a> et seq.] provisions and a resource for obtaining additional information about the law.</p> <p><b>HISTORY:</b> <a href="#">72 Del. Laws, c. 370</a>, § 1; <a href="#">70 Del. Laws, c. 186</a>, § 1; <a href="#">77 Del. Laws, c. 166</a>, § 24; <a href="#">79 Del. Laws, c. 141</a>, § 1.</p> |
| <p><i><a href="#">District of Columbia/</a></i></p> <p>D.C. Code § 2-381.01 et seq.</p> <p>D.C. Code § 2-351.01 et seq.</p> <p>D.C. Code § 1-615.52 et seq.</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://oag.dc.gov/page/false-claims-act">https://oag.dc.gov/page/false-claims-act</a><br/><a href="https://dhcf.dc.gov/service/reporting-medicaid-fraud-and-abuse">https://dhcf.dc.gov/service/reporting-medicaid-fraud-and-abuse</a><br/><a href="https://dhcf.i-sight.com/external/case/new">https://dhcf.i-sight.com/external/case/new</a><br/><a href="https://dhcf.dc.gov/page/reporting-fraud-waste-and-abuse-01">https://dhcf.dc.gov/page/reporting-fraud-waste-and-abuse-01</a></p> <p><b>D.C. Code § 2-381.01 - Definitions</b></p> <p>For the purposes of this subchapter, and unless otherwise defined, the term:</p> <p>(1) "Claim" means:</p> <p>(A) Any request or demand, whether under a contract or otherwise, for money or property, and whether or not the District has title to the money or property, that:</p> <p>(i) Is presented to an officer, employee, or agent of the District; or</p> <p>(ii) Is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the District's behalf or to advance a District program or interest, and if the District:</p> <p>(I) Provides or has provided any portion of the money or property requested or demanded; or</p> <p>(II) Will reimburse the contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>(B) The term "claim" does not include requests or demands for money or property that the District has paid to an individual as compensation for District employment or as an income subsidy with no restrictions on that individual's use of the money or property.</p> <p>(2) "Custodian" means the custodian, or any deputy custodian, designated by the Attorney General for the District of Columbia pursuant to § 2-381.07(j)(1).</p> <p>(3) "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.</p> <p>(4) "False claims law" means this subchapter.</p> <p>(5) "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.</p> <p>(6) "False claims law investigator" means any attorney or investigator employed by the Office of the Attorney General for the District of Columbia who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the District government acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation.</p> <p>(7) "Knowing" or "knowingly" means:</p> <p>(A) That a person, with respect to information, does any of the following:</p> <p>(i) Has actual knowledge of the information;</p> <p>(ii) Acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(iii) Acts in reckless disregard of the truth or falsity of the information.</p> <p>(B) The terms "knowing" and "knowingly" do not require proof of specific intent to defraud.</p> <p>(8) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>(9) "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.</p> <p>(10) "Original source" means an individual who:</p> <p>(A) Has voluntarily disclosed to the District, before a public disclosure under § 2-381.03(i-1)(1), the information on which allegations or transactions in a claim are based; or</p> <p>(B) 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 District before filing an action under this section.</p> <p>(11) "Person" includes any natural person, corporation, firm, association, organization, partnership, business, or trust.</p> <p>(12) "Proceeds" means civil penalties as well as double or treble damages as provided in § 2-381.02, and criminal fines as provided in § 2-381.09.</p> <p><b>HISTORY:</b> Feb. 21, 1996, D.C. Law 6-85, § 813, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g); Apr. 20, 1999, D.C. Law 12-264, § 10(a), 46 DCR 2118; Mar. 19, 2013, D.C. Law 19-232, § 2(a), 59 DCR 13632.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p><b><i>D.C. Code § 2-381.02 - False claims liability, treble damages, costs, and civil penalties; exceptions</i></b></p> <p>(a) Any person who commits any of the following acts shall be liable to the District for 3 times the amount of damages which the District sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the District for the costs of a civil action brought to recover penalties or damages, and shall be liable to the District for a civil penalty of not less than \$ 5,500, and not more than \$ 11,000, for each false or fraudulent claim for which the person:</p> <p>(1) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;</p> <p>(2) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;</p> <p>(3) Has possession, custody, or control of property or money used, or to be used, by the District and knowingly delivers, or causes to be delivered, less than all of that money or property;</p> <p>(4) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the District and, intending to defraud the District, makes or delivers the receipt without completely knowing that the information on the receipt is true;</p> <p>(5) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the District who lawfully may not sell or pledge property;</p> <p>(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 District, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the District;</p> <p>(7) Conspires to commit a violation of paragraph (1), (2), (3), (4), (5), or (6) of this subsection;</p> <p>(8) Is a beneficiary of an inadvertent submission of a false or fraudulent claim to the District, subsequently discovers the falsity of the claim, and fails to disclose the false or fraudulent claim to the District; or</p> <p>(9) Is the beneficiary of an inadvertent payment or overpayment by the District of monies not due and knowingly fails to repay the inadvertent payment or overpayment to the District.</p> <p>(b) Notwithstanding subsection (a) of this section, the court may assess not more than two times the amount of damages which the District sustains because of the act of the person, and there shall be no civil penalty, if the court finds all of the following:</p> <p>(1) The person committing the violation furnished officials of the District responsible for investigating false claims violations with all information known to that person about the violation within 30 days after the date on which the person first obtained the information;</p> <p>(2) The person fully cooperated with any investigation by the District; and</p> <p>(3) At the time the person furnished the District with information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.</p> <p>(c) Liability pursuant to this section shall be joint and several for any act committed by 2 or more persons.</p> <p>(d) This section shall not apply to claims, records, or statements made pursuant to those portions of Title 47 of the District of Columbia Official Code that refer or relate to taxation.</p> <p><b>HISTORY:</b> Feb. 21, 1986, D.C. Law 6-85, § 814, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Mar. 19, 2013, D.C. Law 19-232, § 2(b), 59 DCR 13632.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p><b><i>D.C. Code § 2-381.09 - Penalties for false representations</i></b></p> <p>Whoever makes or presents to any officer or employee of the District of Columbia government, or to any department or agency thereof, any claim upon or against the District of Columbia, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than one year and assessed a fine of not more than \$ 100,000 for each violation of this chapter. The Attorney General for the District of Columbia shall prosecute violations of this section. The fine set forth in this section shall not be limited by <i>§ 22-3571.01</i>.</p> <p><b>HISTORY:</b> Feb. 21, 1986, D.C. Law 6-85, § 821, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Mar. 19, 2013, D.C. Law 19-232, § 2(g), 59 DCR 13632; June 11, 2013, D.C. Law 19-317, § 112(a), 60 DCR 2064.</p> <p>-----</p> <p><b>Procurement Practices Reform Act of 2010 – D.C. Code § 2-351.01 <i>et seq.</i></b></p> <p><b>D.C. Code § 2-351.01 - Purposes and policies</b></p> <p>(a) This chapter shall be liberally construed and applied to promote its underlying purposes and policies.</p> <p>(b) In enacting this chapter, the Council supports the following statutory purposes:</p> <p>(1) To simplify, clarify, and modernize the law governing the procurement of goods, services, and construction items by the District government;</p> <p>(2) To foster effective and equitably broad-based competition in the District by supporting the free enterprise system and the certified business enterprise program as set forth in subchapter IX-A of Chapter 2 of this title [<a href="#">§ 2-218.01</a> et seq.], and its implementing rules;</p> <p>(3) To obtain full and open competition by providing that contractors are given adequate opportunities to bid;</p> <p>(4) To ensure the fair and equitable treatment of all persons who deal with the procurement system of the District government;</p> <p>(5) To increase public confidence in the procedures followed in public procurement;</p> <p>(6) To promote efficiency and eliminate duplication in the District government procurement organization and operation to reduce costs;</p> <p>(7) To provide increased economy in procurement activities and maximize, to the fullest extent practicable, the purchasing power of the District government;</p> <p>(8) To permit the continued development of procurement laws, policies, and practices;</p> <p>(9) To provide for timely, effective, and efficient service to District agencies and individuals doing business with the District government;</p> <p>(10) To promote the development of uniform procurement procedures District government-wide;</p> <p>(11) To improve the understanding of procurement laws and policies within the District government by organizations and individuals doing business with the District government; and</p> <p>(12) To promote, to the maximum extent feasible, the purchase of environmentally preferable products and services.</p> <p><b>HISTORY:</b> Apr. 8, 2011, D.C. Law 18-371, § 101, <a href="#">58 DCR 1185</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p><b>D.C. Code § 2-351.02 - Supplementary general principles of law applicable</b></p> <p>Unless superseded by the particular provisions of this chapter, the principles of law and equity, including subtitle I of Title 28 of the District of Columbia Official Code, and laws relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy, shall supplement the provisions of this chapter.</p> <p><b>HISTORY:</b> Apr. 8, 2011, D.C. Law 18-371, § 102, <a href="#">58 DCR 1185</a>.</p> <p><b>D.C. Code § 2-351.03 - Obligation of good faith</b></p> <p>Every contract or duty within this chapter imposes an obligation of good faith in its performance or enforcement. For purposes of this chapter, the term "good faith" means honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.</p> <p><b>HISTORY:</b> Apr. 8, 2011, D.C. Law 18-371, § 103, <a href="#">58 DCR 1185</a>.</p> <p><b>D.C. Code § 2-351.04 - Definitions</b></p> <p>For the purposes of this chapter, the term:</p> <p>(1) "Affiliate" means any business in which:</p> <p class="margin-left: 40px;">(A) A suspended or debarred person is an officer or has a substantial financial interest and any business that has a substantial direct or indirect ownership interest in the suspended or debarred business; or</p> <p class="margin-left: 40px;">(B) A suspended or debarred business has a substantial direct or indirect ownership interest.</p> <p>(2) "Agency" means any agency, employee, or instrumentality of the District government.</p> <p>(8) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.</p> <p>(10) "Chief Financial Officer" or "CFO" means the Chief Financial Officer of the District of Columbia.</p> <p>(11) "Chief Procurement Officer" or "CPO" means the director of the Office of Contracting and Procurement established by <a href="#">§ 2-352.01</a>.</p> <p>(15) "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract.</p> <p>(16) "Contracting officer" means the Mayor, the CPO, or the CPO's designee vested with the authority to execute contracts on behalf of the District or otherwise bind the District in compliance with the provisions of this chapter.</p> <p>(17) "Contractor" means a person that enters into a contract with the District.</p> <p>(42) "OCP" means the Office of Contracting and Procurement established by <a href="#">§ 2-352.01</a>.</p> <p><b>HISTORY:</b> (Apr. 8, 2011, D.C. Law 18-371, § 104, <a href="#">58 DCR 1185</a>; Feb. 26, 2015, D.C. Law 20-155, § 6034(a), <a href="#">61 DCR 9990</a>.)</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                 | <p><b>D.C. Code § 2-354.15 - Collusion</b></p> <p>(a) A person who enters into a contract with the District after engaging in collusion with another person for the purpose of defrauding the District shall be liable for damages equal to 3 times the value of the loss to the District attributable to the collusion.</p> <p>(b) If there is a reasonable basis for believing that collusion has occurred among any individuals or entities for the purpose of defrauding the District, the CPO shall send a written notice of this belief to the Attorney General and to the Mayor.</p> <p>(c) All documents involved in any procurement in which collusion is suspected shall be retained until the Attorney General gives notice that they may be destroyed. All documents shall be made available to the Attorney General.</p> <p><b>HISTORY:</b> Apr. 8, 2011, D.C. Law 18-371, § 415, <a href="#">58 DCR 1185</a>.</p> <p><b>D.C. Code § 2-354.18 - Right to audit records; right to inspect</b></p> <p>(a) The District may, at reasonable times and places, audit the books and records of any person who has submitted data to substantiate offered prices pursuant to <a href="#">§ 2-354.19</a> to the extent that the books and records relate to that data. A person who receives a contract, change order, or contract modification for which the data is required, shall maintain books and records that relate to the cost or pricing data for 3 years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing.</p> <p>(b) The Inspector General, District of Columbia Auditor, or District shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract, other than a firm fixed-price contract, to the extent that the books and records relate to the performance of the contract or subcontract. Books and records shall be maintained by the contractor for a period of 3 years from the date of final payment under the prime contract and by the subcontractor for a period of 3 years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing.</p> <p>(c) The Inspector General, District of Columbia Auditor, or District may, at reasonable times, inspect the part of the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the District.</p> <p><b>HISTORY:</b> Apr. 8, 2011, D.C. Law 18-371, § 418, <a href="#">58 DCR 1185</a>.</p> <p><b>D.C. Code § 2-359.07 - Debarment and suspension.</b></p> <p><b>(a) (1)</b> After reasonable notice to a person, and reasonable opportunity to be heard:</p> <p style="padding-left: 40px;"><b>(A)</b> The CPO shall debar a person from consideration for award of contracts or subcontracts for any conviction under subsection (c)(1) through (3) of this section, for a judicial determination of a violation under subsection (c)(4) of this section, or for a CPO determination of a violation under subsection (c)(5) through (7) of this section, unless the CPO makes a finding in writing that it would be contrary to the best interests of the District to do so or the present responsibility of the person is such that a debarment would not be warranted; and</p> <p style="padding-left: 40px;"><b>(B)</b> The CPO may debar a person from consideration for award of contracts or subcontracts if one or more of the causes listed in subsection (b) of this section exist.</p> <p><b>(2)</b> The debarment shall not be for a period of more than 5 years.</p> <p><b>(b) (1)</b> The CPO shall suspend a person from consideration for award of contracts or subcontracts for any conviction listed in subsection (c)(1) through (3) of this section, for a judicial determination of a violation under subsection (c)(4) or (5) of this section, or for a CPO determination of a violation under subsection (c)(5) through (7) of this section, unless the CPO makes a finding in writing that it would be contrary to the best interests of the District to do so.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>(2) The CPO may suspend a person from consideration for award of contracts or subcontracts if the person is charged with the commission of any offense described in subsection (c) of this section and if the CPO makes a finding in writing that such suspension would be in the best interests of the District unless the present responsibility of the person is such that a suspension would not be warranted.</p> <p>(c) Causes for debarment or suspension include the following:</p> <p>(1) Conviction for the commission of a criminal offense incident to obtaining, or attempting to obtain, a public or private contract or subcontract or in the performance of the contract or subcontract;</p> <p>(2) Conviction under this chapter or under any other District, federal, or state law for fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity which currently affects the contractor's responsibility as a District government contractor;</p> <p>(3) Conviction under District, federal, or state antitrust laws arising out of the submission of bids or proposals;</p> <p>(4) A violation under subchapter I of Chapter 3B of this chapter [<a href="#">§ 2-381.01</a> through <a href="#">2-381.09</a>];</p> <p>(5) A false assertion of certified business enterprise status or eligibility as defined in subchapter IX-A of Chapter 2 of this title [<a href="#">§ 2-218.01</a> et seq.];</p> <p>(6) A violation of contract provisions, as set forth below, of a character which is regarded by the CPO to be sufficiently serious to justify debarment action:</p> <p>(A) Willful failure, without good cause, to perform in accordance with the specifications or within the time limit provided in the contract; or</p> <p>(B) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms or conditions of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be bases for debarment;</p> <p>(6A) A violation of subchapter II of Chapter 13 of Title 32 [<a href="#">§ 32-1331.01</a> et seq.];</p> <p>(7) Any other cause the CPO determines to be sufficiently serious and compelling to affect responsibility as a District government contractor, including debarment by another governmental entity for any cause listed in rules; or</p> <p>(8) Submission of a bid or proposal to contract with an agency or office of the District by a person debarred or suspended pursuant to a conviction under subsection (c)(1), (2), or (3) of this section, unless the CPO has provided in the submission a written statement to the Chairman of the Council of the compelling reasons to consider the bid or proposal. A second debarment resulting from the submission of a bid or proposal by a debarred person shall result in a permanent debarment pursuant to subsection (k) of this section.</p> <p>(d) (1) After reasonable notice to a person and reasonable opportunity to be heard, the CPO may debar the person from consideration for award of any contract or subcontract if the CPO receives written notification from:</p> <p>(A) The Chairman of the Council or the chairperson of a Council committee that the person has willfully failed to cooperate in a Council or Council committee investigation conducted pursuant to <a href="#">§ 1-204.13</a>;</p> <p>(B) The District of Columbia Auditor that the person has willfully failed to cooperate in an audit conducted pursuant to <a href="#">§ 1-204.55</a> or to produce books or records pursuant to § 1-354.18; or</p> <p>(C) The Inspector General that the person has willfully failed to cooperate in an audit, inspection, or investigation conducted pursuant to <a href="#">§ 1-301.115a(a)(3)</a> or to produce books and records pursuant to § 1-354.18.</p> <p>(2) The CPO shall issue a decision on a debarment recommended through a notification received under paragraph (1) of this subsection within 30 days of receipt of the notification.</p> <p>(3) The debarment shall be for a period of 5 years, unless the CPO receives written notification during the 5-year period from the Chairman of the Council or the chairperson of a Council committee, the District of</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>Columbia Auditor, or the Inspector General that the debarred person has cooperated in the audit, inspection, or investigation referred to in paragraph (1) of this subsection.</p> <p>(4) For the purposes of this subsection, the term "willfully failed to cooperate" means:</p> <p>(A) Intentionally failed to attend and give testimony at a public hearing convened in accordance with the Rules of Organization and Procedure for the Council; or</p> <p>(B) Intentionally failed to provide documents, books, papers, or other information upon request of the Council or a Council committee, the District of Columbia Auditor, or the Inspector General.</p> <p>(e) The CPO shall issue a written decision to debar or suspend a person. The decision shall:</p> <p>(1) State the relevant facts and the reasons for the action taken;</p> <p>(2) Describe the present responsibility of the person;</p> <p>(3) Describe whether the debarment is in the best interests of the District; and</p> <p>(4) Inform the debarred or suspended person of the right to judicial or administrative review as provided in this chapter.</p> <p>(f) A copy of the decision pursuant to subsection (e) of this section shall be final and conclusive unless fraudulent or unless the debarred or suspended person appeals to the Contract Appeals Board within 60 days of receipt of the CPO's decision by the person.</p> <p>(g) The filing of an action pursuant to subsection (f) of this section shall not stay the CPO's decision.</p> <p>(h) (1) Unless otherwise indicated in the debarment or suspension decision, the debarment or suspension of a person shall be effective for all District government agencies.</p> <p>(2) Unless otherwise indicated in the debarment or suspension decision, the debarment or suspension of a person shall constitute a debarment or suspension of any affiliate of that person.</p> <p>(i) If a person is charged with or convicted of committing any offense listed in subsection (c)(1) through (5) of this section, the Office of the Attorney General for the District of Columbia or the United States Attorney, whoever is responsible for prosecuting the charge, shall immediately notify the CPO of the charge or conviction and shall provide such information to the CPO as may otherwise be permitted by law to enable the CPO to take any action authorized by this section. The CPO, in turn, shall immediately notify both the Office of the Attorney General for the District of Columbia and the United States Attorney of any action taken or finding made under this section.</p> <p>(j) (1) The Office of Contracting and Procurement shall compile and maintain a list of persons who have been debarred or suspended in the District to be known as the "Excluded Parties List," which shall include:</p> <p>(A) The name and phone number of the OCP official responsible for maintaining the list;</p> <p>(B) The names and addresses of suspended and debarred persons;</p> <p>(C) The name of the agency that instituted the suspension or debarment;</p> <p>(D) The cause of the suspension or debarment; and</p> <p>(E) The dates and terms of each suspension or debarment.</p> <p>(2) (A) The Excluded Parties List shall be updated monthly and prominently published on the OCP's website.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                 | <p>(B) Copies of the Excluded Parties List shall be distributed electronically to District contracting officers and contract administrators on a monthly basis.</p> <p>(C) (i) Bids or proposals received from a person named on the Excluded Parties List shall be rejected unless the CPO provides the person with a written statement before the bid or proposal is submitted stating the compelling reasons why the bid or proposal should be considered. The CPO's determination shall be appended to the bid or proposal submitted.</p> <p>(ii) If the bid or proposal is awarded to the debarred or suspended person, the award, along with the CPO's determination, shall be prominently published on the OCP's website within 15 days of the issuance of the award and published in the District of Columbia Register as soon as is practicable.</p> <p>(3) Immediately before the award of a contract, the contracting officer or administrator shall review the most recent version of the Excluded Parties List to ensure that persons being considered for the award are not named on the list. If a person being considered for the award appears on the Excluded Parties List, the contracting officer or administrator shall notify the person in writing that the person's bid or proposal shall be rejected unless the person provides a written statement from the CPO in accordance with sib-subparagraph (i) of this subparagraph within 15 days of receipt of the written notification.</p> <p>(k) A person who has been debarred 2 times by the District shall be banned permanently from contracting with a District agency or office; provided, that the suspensions leading to debarment resulted from a violation, conviction, or judicial determination listed in subsection (b)(1) of this section but not a charge listed in subsection (b)(2) of this subsection. A permanent ban from contracting with the District bars a person from consideration for award of contracts or subcontracts permanently; provided, that 10 years after the person's debarment, the person may be eligible for reinstatement if the CPO provides written notification to the Chairman of the Council that the person's business practices have been reformed.</p> <p><b>HISTORY:</b> (Apr. 8, 2011, D.C. Law 18-371, § 907, <a href="#">58 DCR 1185</a>; Apr. 27, 2013, D.C. Law 19-298, § 2, <a href="#">60 DCR 2631</a>; Apr. 27, 2013, D.C. Law 19-300, § 3, <a href="#">60 DCR 2679</a>; Oct. 22, 2015, D.C. Law 21-36, § 1062, <a href="#">62 DCR 10905</a>.)</p> |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b><i>D.C. Code § 2-381.03 - Investigations and prosecutions; powers of prosecuting authority; civil actions by individuals as qui tam plaintiffs; jurisdiction of courts</i></b></p> <p>(a) The Attorney General for the District of Columbia shall investigate, with such assistance from other District agencies as may be required, violations pursuant to § 2-381.02 involving District funds. If the Attorney General for the District of Columbia finds that a person has violated or is violating the provisions of § 2-381.02, the Attorney General for the District of Columbia may bring a civil action against that person in the Superior Court of the District of Columbia.</p> <p>(b) (1) A person may bring a civil action for a violation of § 2-381.02 for the person and for the District. The action shall be brought in the name of the District. The person bringing the action shall be referred to as the qui tam plaintiff. The action may be dismissed only if the court and the Attorney General for the District of Columbia give written consent to the dismissal and their reasons for consenting.</p> <p>(2) A complaint filed by a qui tam plaintiff pursuant to this subsection shall be filed in the Superior Court in camera and may remain under seal for up to 180 days, unless the seal is extended by the court. No service shall be made on the defendant until after the complaint is unsealed.</p> <p>(3) On the same day as the complaint is filed pursuant to paragraph (2) of this subsection, the qui tam plaintiff shall serve the Attorney General for the District of Columbia by mail, return receipt requested, with a copy of the complaint and a written disclosure of substantially all material evidence and information the person possesses.</p> <p>(4) Within 180 days after receiving a complaint alleging violations involving District funds, the Attorney General for the District of Columbia shall do either of the following:</p> <p>(A) Notify the court that he or she intends to proceed with the action, in which case the seal may be lifted unless, for good cause shown, the court continues the seal; or</p> <p>(B) Notify the court that he or she declines to take over the action, in which case the seal shall be lifted and the qui tam plaintiff shall have the right to conduct the action.</p>                                                                                                                                                       |

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|                 | <p>(5) Upon a showing of good cause, the Attorney General for the District of Columbia may move the court for extensions of the time during which the complaint remains under seal.</p> <p>(6) When a qui tam plaintiff brings an action pursuant to this subsection, no person other than the District may intervene or bring a related action based on the facts underlying the pending action.</p> <p>(7) The District is not liable for expenses which a qui tam plaintiff incurs in bringing an action under this section.</p> <p>(c) (1) No person may bring an action pursuant to subsection (b) of this section against a member of the Council of the District of Columbia, a member of the District judiciary, or an elected official in the executive branch of the District, if the action is based on evidence or information known to the District when the action was brought.</p> <p>(2) No person may bring an action under subsection (b) of this section 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 District is already a party.</p> <p>(c-1) (1) Except as provided in paragraph (2) of this subsection, a court shall dismiss an action or claim under this section if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed:</p> <p>(A) In a criminal, civil, or administrative hearing in which the District or its agent is a party;</p> <p>(B) In a report, hearing, audit, or investigation by the Council of the District of Columbia, the Auditor of the District of Columbia, the Inspector General of the District of Columbia, or other District agency; or</p> <p>(C) By the news media.</p> <p>(2) A court shall not dismiss an action or claim as provided in paragraph (1) of this subsection if:</p> <p>(A) The action is brought by the Attorney General for the District of Columbia;</p> <p>(B) The District is opposed to the dismissal; or</p> <p>(C) The action is brought by a qui tam plaintiff and the qui tam plaintiff is an original source of the information.</p> <p>(d) (1) If the District proceeds with the action, it shall have the primary responsibility for 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 set forth in paragraph (2) of this subsection.</p> <p>(2) (A) The District may dismiss the action notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified by the District of the filing of the motion to dismiss and the court has provided the qui tam plaintiff with an opportunity for a hearing on the motion.</p> <p>(B) The District may settle the action with the defendant, notwithstanding the objections of the qui tam plaintiff, if the court determines, after a hearing providing the qui tam plaintiff an opportunity to be heard, 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.</p> <p>(C) Upon a showing by the District that unrestricted participation during the course of the litigation by the qui tam plaintiff would interfere with or unduly delay the District'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 qui tam plaintiff's participation, such as:</p> <p>(i) Limiting the number of witnesses the qui tam plaintiff may call;</p> <p>(ii) Limiting the length of the testimony of such witnesses;</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(iii) Limiting the qui tam plaintiff's cross-examination of witnesses; or</p> <p>(iv) Otherwise limiting the participation by the qui tam plaintiff in the litigation.</p> <p>(D) Upon a showing by the defendant that unrestricted participation during the course of the 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, in its discretion, limit the participation by the qui tam plaintiff.</p> <p>(e) (1) If the District elects not to proceed and the qui tam action was proper pursuant to subsection (c) of this section, the qui tam plaintiff shall have the same right to conduct the action as the Attorney General for the District of Columbia would have had if he or she had chosen to proceed pursuant to subsection (b) of this section. If the District so requests, the District shall be served with copies of all pleadings filed in the action.</p> <p>(2) When the qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may nevertheless permit the District to intervene at a later date upon a showing of good cause.</p> <p>(f) (1) (A) If the District proceeds with an action brought by a qui tam plaintiff pursuant to subsection (b) of this section, the qui tam plaintiff, subject to subparagraph (B) of this paragraph, shall 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 qui tam plaintiff substantially contributed to the prosecution of the action.</p> <p>(B) Where the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the qui tam plaintiff, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a report, hearing, audit, or investigation conducted by a District agency, 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 qui tam plaintiff in advancing the case to litigation.</p> <p>(C) Any payment to a qui tam plaintiff under this paragraph shall be made from the proceeds of the judgment or the settlement of the claim. Any qui tam plaintiff receiving a payment under this paragraph 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.</p> <p>(2) (A) If the District does not proceed with an action brought by a qui tam plaintiff pursuant to subsection (b) of this section, the qui tam plaintiff shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages; provided, that the amount shall be not less than 25%, and not more than 30%, of the proceeds of the action or settlement of the claim.</p> <p>(B) Any payment to a qui tam plaintiff under this paragraph shall be made from the proceeds of the judgment or the settlement of the claim. Any qui tam plaintiff receiving a payment under this paragraph 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.</p> <p>(3) The portion of the recovery not distributed pursuant to paragraphs (1) and (2) of this subsection shall be paid to the District treasury.</p> <p>(4) (A) Whether or not the District proceeds with the action, if the court finds that the action was brought by a qui tam plaintiff who planned and initiated the violation of § 2-381.02 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 qui tam plaintiff would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of the qui tam plaintiff in advancing the case to litigation and any relevant circumstances pertaining to the violation.</p> <p>(B) If the qui tam plaintiff is convicted of criminal conduct arising from his or her role in the violation of § 2-381.02, the qui tam plaintiff 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 District to continue the action, represented by the Attorney General for the District of Columbia.</p> <p>(5) If the District does not proceed with the action and the qui tam plaintiff conducts the action, the court may award to the defendant reasonable attorneys fees and expenses necessarily incurred if the defendant prevails in the action and the court finds that the claim of the qui tam plaintiff was frivolous, vexatious, or brought solely for purposes of harassment.</p> <p>(6) (A) Notwithstanding subsection (b) of this section, the District may elect to pursue a violation of § 2-381.02 through any alternate remedy available to the District, including an administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the qui tam plaintiff shall have the same rights in such proceeding as such person would have had if the qui tam 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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>(B) For the purposes of this paragraph, 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.</p> <p>(g) (1) Whether or not the District proceeds with the action, upon a showing by the District that certain actions of discovery by the qui tam plaintiff would interfere with the investigation or prosecution of a criminal or civil matter by the District or a criminal matter in the District of Columbia arising out of the same facts, the court may stay such discovery for a period of not more than 60 days.</p> <p>(2) Upon a further showing that the District or the United States Attorney's Office for the District of Columbia has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the qui tam action will interfere with the ongoing criminal or civil investigation or proceedings, the court may extend the stay of discovery provided for in paragraph (1) of this subsection.</p> <p>(3) Any showing provided for under this subsection shall be conducted in camera.</p> <p><b>HISTORY:</b> Feb. 21, 1986, D.C. Law 6-85, § 815, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Apr. 20, 1999, D.C. Law 12-264, § 10(b), 46 DCR 2118; Mar. 11, 2010, D.C. Law 18-117, § 4, 57 DCR 896; Sept. 14, 2011, D.C. Law 19-21, § 9004(a), 58; Mar. 19, 2013, D.C. Law 19-232, § 2(c), 59 DCR 13632.</p> <p><b><i>D.C. Code § 2-381.05 - Limitation of actions; burden of proof</i></b></p> <p>(a) A civil action brought pursuant to § 2-381.03 may not be brought:</p> <p>(1) More than 6 years after the date on which the violation of § 2-381.02 is committed; or</p> <p>(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 District charged with the responsibility to act in those circumstances, but in no event more than 10 years after the date on which the violation of § 2-381.02 is committed, whichever occurs last.</p> <p>(b) A civil action brought pursuant to § 2-381.03 may not be brought for activity prior to April 12, 1997.</p> <p>(c) In any action brought pursuant to § 2-381.03, the District 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.</p> <p>(d) Notwithstanding any other provision of law, a judgment of guilt in a criminal proceeding charging false statements or fraud, 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 brought pursuant to § 2-308.15 which involves the same transaction as in the criminal proceeding.</p> <p>(e) (1) If the District elects to intervene and proceed with an action brought under § 2-381.03, the District may file its own complaint or amend the complaint of a qui tam plaintiff who has brought an action under § 2-381.03(b) to clarify or add detail to the claims in which the District is intervening and to add any additional claims with respect to which the District contends it is entitled to relief.</p> <p>(2) Any District pleading as provided for in this subsection shall relate back to the filing date of the complaint of the qui tam plaintiff who originally brought the action, and thereby comply with the statute of limitations as provided for in this subchapter, to the extent that the claim of the District arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of the qui tam plaintiff.</p> <p><b>HISTORY:</b> Feb. 21, 1986, D.C. Law 6-85, § 817, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Apr. 20, 1999, D.C. Law 12-264, § 10(d), 46 DCR 2118; Mar. 19, 2013, D.C. Law 19-232, § 2(e), 59 DCR 13632.</p> <p><b><i>D.C. Code § 2-381.07 - Civil investigative demands</i></b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>(a) (1) Whenever the Attorney General for the District of Columbia 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 for the District of Columbia may, in order to determine whether to commence a civil proceeding pursuant to this chapter, issue in writing and cause to be served upon such person a civil investigative demand requiring that such person do the following:</p> <p class="list-item-l1">(A) Produce documentary material relevant to the false claims law investigation for inspection and copying;</p> <p class="list-item-l1">(B) Answer in writing written interrogatories with respect to any documentary material or information relevant to the false claims law investigation;</p> <p class="list-item-l1">(C) Provide oral testimony concerning any documentary material or information relevant to the false claims law investigation; or</p> <p class="list-item-l1">(D) Furnish any combination of such material, answers, or testimony.</p> <p>(2) The Attorney General for the District of Columbia may delegate to the Principal Deputy Attorney General for the District of Columbia the authority, in his or her absence, to issue civil investigative demands pursuant to paragraph (1) of this subsection. The Attorney General for the District of Columbia may not issue a civil investigative demand in order to conduct, or assist in the conducting of, a criminal investigation.</p> <p>(b) (1) Each civil investigative demand issued pursuant to subsection (a)(1) of this section 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.</p> <p class="list-item-l1">(2) If such demand is for the production of documentary material, the demand shall do the following:</p> <p class="list-item-l2">(A) Describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;</p> <p class="list-item-l2">(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</p> <p class="list-item-l2">(C) Identify the false claims law investigator to whom such material shall be made available.</p> <p class="list-item-l1">(3) If such demand is for answers to written interrogatories, the demand shall do the following:</p> <p class="list-item-l2">(A) Set forth with specificity the written interrogatories to be answered;</p> <p class="list-item-l2">(B) Prescribe dates at which time answers to written interrogatories shall be submitted; and</p> <p class="list-item-l2">(C) Identify the false claims law investigator to whom such answers shall be submitted.</p> <p class="list-item-l1">(4) If such demand is for the giving of oral testimony, the demand shall do the following:</p> <p class="list-item-l2">(A) Prescribe the date, time, and place at which oral testimony shall commence;</p> <p class="list-item-l2">(B) Identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted;</p> <p class="list-item-l2">(C) Specify that such attendance and testimony are necessary to conduct the investigation;</p> <p class="list-item-l2">(D) Notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and</p> <p class="list-item-l2">(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, which will be taken pursuant to the demand.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(5) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand shall be a date that is not less than 7 days after the date on which the demand is received, unless the Attorney General for the District of Columbia determines that exceptional circumstances are present that warrant the commencement of such testimony within a shorter period of time.</p> <p>(6) The Attorney General for the District of Columbia shall not authorize, pursuant to subsection (a)(1) of this section, issuance of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General for the District of Columbia, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.</p> <p>(c) A civil investigative demand may 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 material, answers, or testimony would be protected from disclosure under:</p> <p>(1) The standards applicable to subpoenas or subpoenas duces tecum issued by a court of the District of Columbia to aid in a grand jury investigation; or</p> <p>(2) The standards applicable to discovery requests pursuant to the Superior Court Civil Rules to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.</p> <p>(d) (1) Any civil investigative demand issued pursuant to subsection (a) of this section may be served by a false claims law investigator or his or her agent, or by a United States marshal or a deputy marshal, at any place within the territorial jurisdiction of any court of the United States; provided, that the Superior Court of the District of Columbia could exercise jurisdiction over the recipient of the demand consistent with the due process clause of the Constitution of the United States.</p> <p>(2) Any such demand or any petition filed pursuant to subsection (a) of this section may be served upon any person who is not found within the territorial jurisdiction of any court of the United States in such manner as the Superior Court Civil Rules prescribe for service in a foreign country; provided, that the Superior Court of the District of Columbia could exercise jurisdiction over the recipient of the demand consistent with the due process clause of the Constitution of the United States.</p> <p>(e) (1) Service of any civil investigative demand issued pursuant to subsection (a) of this section, or of any petition filed pursuant to subsection (a) of this section, may be made upon a partnership, corporation, association, or other legal entity by the following methods:</p> <p>(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;</p> <p>(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</p> <p>(C) Depositing an executed copy of such demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.</p> <p>(2) Service of any such demand or petition may be made upon any natural person by the following methods:</p> <p>(A) Delivering an executed copy of such demand or petition to the person; or</p> <p>(B) Depositing an executed copy of such 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 or principal office or place of business.</p> <p>(f) A verified return by the individual serving any civil investigative demand or any petition filed pursuant to subsection (a) of this section setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.</p> <p>(g) (1) The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the following:</p> |

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|                 | <p>(A) In the case of a natural person, by the person to whom the demand is directed; or</p> <p>(B) In the case of a person other than a natural person, by a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person.</p> <p>(2) 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.</p> <p>(3) Any person upon whom any civil investigative demand for the production of documentary material has been served shall make such 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 pursuant to subsection (j)(1) of this section. Such 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 material.</p> <p>(h) (1) Each interrogatory in a civil investigative demand 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, as follows:</p> <p>(A) In the case of a natural person, by the person to whom the demand is directed, or</p> <p>(B) In the case of a person other than a natural person, by the person or persons responsible for answering each interrogatory.</p> <p>(2) 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.</p> <p>(i) (1) The examination of any person, pursuant to a civil investigative demand for oral testimony, shall be conducted before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is taken shall put the witness under 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 by any means authorized by, and in a manner consistent with, the Superior Court Civil Rules, and shall be transcribed.</p> <p>(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 or other representative of the person giving the testimony, the attorney for the District government, any person who may be agreed upon by the attorney for the District government and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.</p> <p>(3) The oral testimony of any person taken pursuant to a civil investigative demand shall be taken in the judicial district of the United States 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.</p> <p>(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 an attorney, 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 that the witness desires 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 of the witness, or the refusal to sign, together with the reasons, if any, given therefor.</p> <p>(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. The officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.</p> <p>(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 for the District of Columbia may, for good cause, limit such witness to inspection of the official transcript of the witness's testimony.</p> |

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|                 | <p>(7) Any person compelled to appear for oral testimony pursuant to a civil investigative demand may be accompanied, represented, and advised by an attorney. The attorney may advise such person, in confidence, with respect to any question asked of such person. Such person or attorney 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 only 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 may not, directly or through the person's attorney, otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the Superior Court of the District of Columbia pursuant to subsection (d)(1) of this section for an order compelling such person to answer the question.</p> <p>(8) Any person appearing for oral testimony pursuant to a civil investigative demand shall be entitled to the same fees and allowances that are paid to witnesses in the Superior Court of the District of Columbia.</p> <p>(j) (1) The Attorney General for the District of Columbia shall designate a false claims law investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received pursuant to this section, and shall designate such additional false claims law investigators as the Attorney General for the District of Columbia determines from time to time to be necessary to serve as deputies to the custodian.</p> <p>(2) (A) A false claims law investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony pursuant to this section shall transmit them to the custodian. The custodian shall take physical possession of such material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material pursuant to paragraph (4) of this subsection.</p> <p>(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 any other officer or employee of the Office of the Attorney General for the District of Columbia who is authorized for such use by the Attorney General for the District of Columbia. Such material, answers, and transcripts may be used by any authorized false claims law investigator or other officer or employee in connection with the taking of oral testimony pursuant to this section.</p> <p>(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 officer or employee of the Office of the Attorney General for the District of Columbia authorized pursuant to subparagraph (B) of this paragraph; provided that nothing in this subparagraph is intended to prevent:</p> <p class="list-item-l1">(i) The availability of material, answers, or transcripts if consent is given by the person who produced such material, answers, or transcripts;</p> <p class="list-item-l1">(ii) Disclosure to the Council, including any committee of the Council;</p> <p class="list-item-l1">(iii) Disclosure to the United States Attorney's Office;</p> <p class="list-item-l1">(iv) Disclosure to any other federal or state agency for use by such agency in furtherance of its statutory responsibilities; provided, that disclosure of information to any agency other than the Council or the United States Attorney's Office shall be allowed only upon application, made by the Attorney General for the District of Columbia to the Superior Court of the District of Columbia, showing substantial need for the use of the information by such agency in furtherance of its statutory responsibilities and after giving the individuals who provided the information an opportunity to be heard on the release of the information; or</p> <p class="list-item-l1">(v) Disclosure to any federal or state agency in connection with a joint case or investigation with the Office of the Attorney General for the District of Columbia provided that before disclosure, an official of the receiving agency agrees in writing to abide by the disclosure restrictions of this paragraph.</p> <p>(D) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General for the District of Columbia shall prescribe, the following shall apply:</p> <p class="list-item-l1">(i) Documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by a representative of that person authorized by that person to examine such material and answers; and</p> <p class="list-item-l1">(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(3) Whenever any attorney of the Office of the Attorney General for the District of Columbia is conducting any official investigation or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received pursuant to this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any such investigation or proceeding as such attorney determines to be required. Upon the completion of any such investigation or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered that have not passed into the control of any court or agency through introduction into the record of any case or proceeding.</p> <p>(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, and any case or proceeding before a court arising out of such investigation, or any proceeding before any District government agency involving such material, has been completed, or no case or proceeding in which such 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 material, return to such person any such material (other than copies furnished to the false claims law investigator pursuant to subsection (g)(2) of this section or made for the Office of the Attorney General for the District of Columbia pursuant to paragraph (2)(B) of this subsection), which has not passed into the control of any court or agency through introduction into the record of such case or proceeding.</p> <p>(5) (A) In the event of the death, disability, or separation from service in the Office of the Attorney General for the District of Columbia of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand issued pursuant to this section, or in the event of the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Attorney General for the District of Columbia shall promptly do the following:</p> <p class="list-item-l1">(i) Designate another false claims law investigator to serve as custodian of such material, answers, or transcripts; and</p> <p class="list-item-l1">(ii) Transmit in writing to the person who produced such material, answers, or testimony notice of the identity and address of the successor so designated.</p> <p>(B) Any person who is designated to be a successor pursuant to this paragraph shall have, with regard to such 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.</p> <p>(k) (1) Whenever any person fails to comply with any civil investigative demand, or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender such material, the Attorney General for the District of Columbia may file in the Superior Court of the District of Columbia and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.</p> <p>(2) (A) Any person who receives a civil investigative demand may file in the Superior Court of the District of Columbia 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. Any petition issued pursuant to this subparagraph must be filed:</p> <p class="list-item-l1">(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</p> <p class="list-item-l1">(ii) Within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.</p> <p>(B) The petition shall specify each ground upon which the petitioner relies in seeking relief pursuant to subparagraph (A) of this paragraph, and may be based upon any failure of the demand, or any particular portion thereof, to comply with the provisions of this 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.</p> <p>(3) At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand, such person may file in the Superior Court of the District of Columbia 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 section.</p> <p>(4) Whenever any petition is filed in the Superior Court of the District of Columbia, 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 section. Any final order so entered shall be subject to appeal. Any disobedience of any final order entered pursuant to this section by any court shall be punished as contempt of court.</p> |




| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(5) The Superior Court Civil Rules shall apply to any petition issued pursuant to this subsection, to the extent that such rules are not inconsistent with the provisions of this section.</p> <p>(l) Any documentary material, answers to written interrogatories, or oral testimony provided pursuant to any civil investigative demand issued pursuant to subsection (a) of this section shall be exempt from disclosure pursuant to subchapter II of Chapter 5 of this title.</p> <p>(m) For the purposes of this section, the term "person" means any natural person, partnership, corporation, association, or other legal entity, including any state or political subdivision of a state.</p> <p><b>HISTORY:</b> Feb. 21, 1986, D.C. Act 6-85, § 819, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Apr. 20, 1999, D.C. Law 12-264, § 10(e), 46 DCR 2118; Apr. 12, 2000, D.C. Law 13-91, § 122, 47 DCR 520; Mar. 19, 2013, D.C. Law 19-232, § 2(f), 59 DCR 13632.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                 | <p><b>Whistle-blower Protections</b></p> <p><b><i>D.C. Code § 2-381.04 - Relief from retaliatory actions</i></b></p> <p>(a) 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 subchapter or other efforts to stop one or more violations of this subchapter.</p> <p>(b) The relief authorized under subsection (a) of this section shall include:</p> <p>(1) Reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination;</p> <p>(2) Two times the amount of back pay;</p> <p>(3) Interest on the back pay; and</p> <p>(4) Compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.</p> <p>(c) An action seeking relief under this section may be brought in the Superior Court of the District of Columbia; provided, that a civil action seeking relief under this section may not be brought more than 3 years after the date when the retaliation occurred.</p> <p><b>HISTORY:</b> Feb. 21, 1986, D.C. Law 6-85, § 816, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687; Apr. 20, 1999, D.C. Law 12-264, § 10(c), 46DCR 2118; Sept. 26, 2012, D.C. Law 19-171, § 98(a), 59 DCR 6190; Mar. 19, 2013, D.C. Law 19-232, § 2(d), 59 DCR 13632.</p> <p><b><i>D.C. Code § 2-381.06 - Remedies pursuant to other laws; severability of provisions; liberality of article construction</i></b></p> <p>The provisions of this chapter are not exclusive, and the remedies provided for shall be in addition to any other remedies provided for in any other law or available pursuant to common law.</p> <p><b>HISTORY:</b> Feb. 21, 1986, D.C. Law 6-85, § 818, 32 DCR 7396, as added May 8, 1998, D.C. Law 12-104, § 2(g), 45 DCR 1687.</p> <p><b>D.C. Code § 1-615.52 et seq.</b><br/>DIVISION I. GOVERNMENT OF DISTRICT<br/>TITLE 1. GOVERNMENT ORGANIZATION<br/>CHAPTER 6. MERIT PERSONNEL SYSTEM<br/>SUBCHAPTER XV-A. WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF CONTRACTORS AND INSTRUMENTALITIES OF THE DISTRICT GOVERNMENT</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>D.C. Code § 1-615.52</p> <p>(a) For purposes of this subchapter, the term:</p> <p>(1) "Contract" means any contract for goods or services between the District government and another entity but excludes any collective bargaining agreement.</p> <p>(2) "Contributing factor" means any factor which, alone or in connection with other factors, tends to affect in any way the outcome of the decision.</p> <p>(3) "Employee" means any person who is a former or current District employee, or an applicant for employment by the District government, including but not limited to employees of subordinate agencies, independent agencies, the District of Columbia Board of Education, the Board of Trustees of the University of the District of Columbia, the District of Columbia Housing Authority, and the Metropolitan Police Department, but excluding employees of the Council of the District of Columbia.</p> <p>(4) "Illegal order" means a directive to violate or to assist in violating a federal, state or local law, rule, or regulation.</p> <p>(5) (A) "Prohibited personnel action" includes but is not limited to: recommended, threatened, or actual termination, demotion, suspension, or reprimand; involuntary transfer, reassignment, or detail; referral for psychiatric or psychological counseling; failure to promote or hire or take other favorable personnel action; or retaliating in any other manner against an employee because that employee makes a protected disclosure or refuses to comply with an illegal order, as those terms are defined in this section.</p> <p>(B) For purposes of this paragraph, the term:</p> <p>(i) "Investigation" includes an examination of fitness for duty and excludes any ministerial or nondiscretionary factfinding activity necessary to perform the agency's mission.</p> <p>(ii) "Retaliating" includes conducting or causing to be conducted an investigation of an employee or applicant for employment because of a protected disclosure made by the employee or applicant who is a whistleblower.</p> <p>(6) "Protected disclosure" means any disclosure of information, not specifically prohibited by statute, without restriction to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, by an employee to a supervisor or a public body that the employee reasonably believes evidences:</p> <p>(A) Gross mismanagement;</p> <p>(B) Gross misuse or waste of public resources or funds;</p> <p>(C) Abuse of authority in connection with the administration of a public program or the execution of a public contract;</p> <p>(D) A violation of a federal, state, or local law, rule, or regulation, or of a term of a contract between the District government and a District government contractor which is not of a merely technical or minimal nature;</p> <p>or</p> <p>(E) A substantial and specific danger to the public health and safety.</p> <p>(7) "Public body" means:</p> <p>(A) The United States Congress, the Council, any state legislature, the District of Columbia Office of the Inspector General, the Office of the District of Columbia Auditor, the District of Columbia Financial Responsibility and Management Assistance Authority, or any member or employee of one of these bodies;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>(B) The federal, District of Columbia, or any state or local judiciary, any member or employee of these judicial branches, or any grand or petit jury;</p> <p>(C) Any federal, District of Columbia, state, or local regulatory, administrative, or public agency or authority or instrumentality of one of these agencies or authorities;</p> <p>(D) Any federal, District of Columbia, state, or local law enforcement agency, prosecutorial office, or police or peace officer;</p> <p>(E) Any federal, District of Columbia, state, or local department of an executive branch of government; or</p> <p>(F) Any division, board, bureau, office, committee, commission or independent agency of any of the public bodies described in subparagraphs (A) through (E) of this paragraph.</p> <p>(8) "Supervisor" means an individual employed by the District government who meets the definition of a "supervisor" in <a href="#">§ 1-617.01(d)</a> or who has the authority to effectively recommend or take remedial or corrective action for the violation of a law, rule, regulation or contract term, or the misuse of government resources that an employee may allege or report pursuant to this section, including without limitation an agency head, department director, or manager.</p> <p>(9) "Whistleblower" means an employee who makes or is perceived to have made a protected disclosure as that term is defined in this section.</p> <p><b>HISTORY:</b> Mar. 3, 1979, D.C. Law 2-139, § 1552, as added Oct. 7, 1998, D.C. Law 12-160, § 102(c),<a href="#">45 DCR 5147</a>; <a href="#">1981</a> Ed., § 1-616.12; Mar. 5, 2010, D.C. Law 18-117, § 2(a), <a href="#">57 DCR 896</a>.</p> <p><b>D.C. Code § 1-615.53 -</b> § 1-615.53. Prohibitions [Formerly § 1-616.13]</p> <p>(a) A supervisor shall not take, or threaten to take, a prohibited personnel action or otherwise retaliate against an employee because of the employee's protected disclosure or because of an employee's refusal to comply with an illegal order.</p> <p>(b) Except in cases where the communication would be unlawful, a person shall not interfere with or deny the right of employees, individually or collectively, to furnish information to the Council, a Council committee, or a Councilmember.</p> <p><b>HISTORY:</b> Mar. 3, 1979, D.C. Law 2-139, § 1553, as added Oct. 7, 1998, D.C. Law 12-160, § 102(c), <a href="#">45 DCR 5147</a>; <a href="#">1981</a> Ed., § 1-616.13; Mar. 5, 2010, D.C. Law 18-117, § 2(b), <a href="#">57 DCR 896</a>.</p> <p><b>D.C. Code § 1-615.54 -</b> § 1-615.54. Enforcement [Formerly § 1-616.14]</p> <p>(a) (1) An employee aggrieved by a violation of <a href="#">§ 1-615.53</a> may bring a civil action against the District, and, in his or her personal capacity, any District employee, supervisor, or official having personal involvement in the prohibited personnel action, before a court or a jury in the Superior Court of the District of Columbia seeking relief and damages, including:</p> <p>(A) An injunction;</p> <p>(B) Reinstatement to the same position held before the prohibited personnel action or to an equivalent position;</p> <p>(C) Reinstatement of the employee's seniority rights;</p> <p>(D) Restoration of lost benefits;</p> <p>(E) Back pay and interest on back pay;</p> <p>(F) Compensatory damages; and</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                 | <p>(G) Reasonable costs and attorney fees.</p> <p>(2) A civil action shall be filed within 3 years after a violation occurs or within one year after the employee first becomes aware of the violation, whichever occurs first.</p> <p>(3) <a href="#">Section 12-309</a> shall not apply to any civil action brought under this section.</p> <p>(b) In a civil action or administrative proceeding, once it has been demonstrated by a preponderance of the evidence that an activity proscribed by <a href="#">§ 1-615.53</a> was a contributing factor in the alleged prohibited personnel action against an employee, the burden of proof shall be on the defendant to prove by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in activities protected by this section.</p> <p>(c) Notwithstanding any other provision of law, a violation of <a href="#">§ 1-615.53</a> constitutes a complete affirmative defense for a whistleblower to a prohibited personnel action in an administrative review, challenge, or adjudication of that action.</p> <p>(d) An employee who prevails in a civil action at the trial level, shall be granted the equitable relief provided in the decision effective upon the date of the decision, absent a stay.</p> <p>(e) (1) If a protected disclosure assists in securing the right to recover, the actual recovery of, or the prevention of loss of more than \$ 100,000 in public funds, the Mayor may pay a reward in any amount between \$ 5,000 and \$ 50,000 to the person who made the protected disclosure; provided, that any reward shall be recommended by the Inspector General, the District of Columbia Auditor, or other similar law enforcement authority.</p> <p>(2) This subsection shall not create any right or benefit, substantive or procedural, enforceable at law or equity, by a party against any District government agency, instrumentality, officer, employee, or other person.</p> <p><b>HISTORY:</b> Mar. 3, 1979, D.C. Law 2-139, § 1554, as added Oct. 7, 1998, D.C. Law 12-160, § 102(c), <a href="#">45 DCR 5147</a>; <a href="#">1981</a> Ed., § 1-616.14; Mar. 5, 2010, D.C. Law 18-117, § 2(c), <a href="#">57 DCR 896</a>.</p> <p><b>D.C. Code § 1-615.55</b></p> <p>§ 1-615.55. Disciplinary actions; fine [Formerly § 1-616.15]</p> <p>(a) As part of the relief ordered in an administrative, arbitration or judicial proceeding, any person who is found to have violated <a href="#">§ 1-615.53</a> or <a href="#">§ 2-223.02</a> shall be subject to appropriate disciplinary action including dismissal.</p> <p>(b) As part of the relief ordered in a judicial proceeding, any person who is found to have violated <a href="#">§ 1-615.53</a> or <a href="#">§ 2-223.02</a> shall be subject to a civil fine not to exceed \$ 10,000.</p> <p><b>HISTORY:</b> Mar. 3, 1979, D.C. Law 2-139, § 1555, as added Oct. 7, 1998, D.C. Law 12-160, § 102(c), <a href="#">45 DCR 5147</a>; <a href="#">1981</a> Ed., § 1-616.15; Mar. 5, 2010, D.C. Law 18-117, § 2(d), <a href="#">57 DCR 896</a>.</p> <p><b>D.C. Code § 1-615.58 - § 1-615.58. Employee responsibilities</b> [Formerly § 1-616.18]</p> <p>Employees shall have the following rights and responsibilities:</p> <p>(1) The right to freely express their opinions on all public issues, including those related to the duties they are assigned to perform; provided, however, that any agency may promulgate reasonable rules and regulations requiring that any such opinions be clearly disassociated from that agency's policy;</p> <p>(2) The right to disclose information unlawfully suppressed, information concerning illegal or unethical conduct which threatens or which is likely to threaten public health or safety or which involves the unlawful appropriation or use of public funds, and information which would tend to impeach the testimony of employees of the District government before committees of the Council or the responses of employees to inquiries from members of the Council concerning the implementation of programs, information which would involve expenditure of public funds, and the protection of the constitutional rights of citizens and the rights of government employees under this chapter and under any other laws, rules, or regulations for the protection of the rights of employees; provided, however, that nothing in this section shall be construed to permit the disclosure of the contents of personnel files, personal medical reports, or any other information in a manner to invade the individual privacy of an employee or citizen of the United States except as otherwise provided in</p> |

| State /Citation                                                                                                                                                                                                                                              | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                                                                                                                                                                                                                                                              | <p>this chapter;</p> <p>(3) The right to communicate freely and openly with members of the Council and to respond fully and with candor to inquiries from committees of the Council, and from members of the Council; provided, however, that nothing in this section shall be construed to permit the invasion of the individual privacy of other employees or of citizens of the United States;</p> <p>(4) The right to assemble in public places for the free discussion of matters of interest to themselves and to the public and the right to notify, on their own time, fellow employees and the public of these meetings;</p> <p>(5) The right to humane, dignified, and reasonable conditions of employment, which allow for personal growth and self-fulfillment, and for the unhindered discharge of job responsibilities;</p> <p>(6) The right to individual privacy; provided, however, that nothing in this section shall limit in any manner an employee's access to his or her own personnel file, medical report file, or any other file or document concerning his or her status or performance within his or her agency, except as otherwise provided in subchapter XXXI;</p> <p>(7) Each employee of the District government shall make all protected disclosures concerning any violation of law, rule, or regulation, contract, misuse of government resources or other disclosure enumerated in <a href="#">§ 1-615.52(a)(6)</a>, as soon as the employee becomes aware of the violation or misuse of resources;</p> <p>(8) Each supervisor employed by the District government shall make all protected disclosures involving any violation of law, rule, regulation or contract pursuant to <a href="#">§ 1-615.52(a)(6)(D)</a> as soon as the supervisor becomes aware of the violation;</p> <p>(9) The failure of a supervisor to make protected disclosures pursuant to <a href="#">§ 1-615.52(a)(6)(D)</a> shall be a basis for disciplinary action including dismissal;</p> <p>(10) Upon receipt of an adjudicative finding that a protected activity was a contributing factor in an alleged prohibited personnel action, the appropriate agency head shall immediately institute disciplinary action against the offending supervisor; and</p> <p>(11) Disciplinary action taken pursuant to this section shall follow the procedures of subchapter XVI-A, where applicable.</p> <p><b>HISTORY:</b> Mar. 3, 1979, D.C. Law 2-139, § 1558, as added Oct. 7, 1998, D.C. Law 12-160, § 102(c), <a href="#">45 DCR 5147</a>; <a href="#">1981</a> Ed., § 1-616.18; Apr. 12, 2000, D.C. Law 13-91, § 109(d), <a href="#">47 DCR 520</a>.</p> |
| <p><i>Florida</i></p> <p>Fla. Stat. § 68.081, et seq.</p> <p>Fla. Stat. 409.913</p> <p>Fla. Stat. § 409.920</p> <p>Fla. Stat. § 409.9201</p> <p>Fla. Stat. § 409.9203</p> <p>Fla. Stat. § 456.054</p> <p>Fla. Stat. § 458.331</p> <p>Fla. Stat. § 414.39</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</p> <p><a href="https://abca.myflorida.com/MCHO/MPI/">https:// abca.myflorida.com/MCHO/MPI/</a></p> <p><a href="http://www.myfloridalegal.com/pages.nsf/Main/EBC480598BBF32D885256CC6005B54D1">http:// www.myfloridalegal.com/pages.nsf/Main/EBC480598BBF32D885256CC6005B54D1</a></p> <p><a href="https://abca.myflorida.com/Executive/Inspector_General/complaints.shtml">https:// abca.myflorida.com/Executive/Inspector_General/complaints.shtml</a></p> <p><a href="https://myfloridacfo.com/fraudfreeflorida/">https://myfloridacfo.com/fraudfreeflorida/</a></p> <p><a href="https://myfloridacfo.com/docs-sf/workers-compensation-libraries/workers-comp-documents/brochures-and-guides/anti-fraudnotice.pdf?sfvrsn=c8fb3f77_4">https://myfloridacfo.com/docs-sf/workers-compensation-libraries/workers-comp-documents/brochures-and-guides/anti-fraudnotice.pdf?sfvrsn=c8fb3f77_4</a></p> <p>Fla. Stat. § 68.081</p> <p><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.081.html">http:// www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.081.html</a></p> <p>Sections 68.081-68.092 may be cited as the "Florida False Claims Act."</p> <p> <b>History:</b> S. 1, <a href="#">ch. 94-316</a>; s. 1, <a href="#">ch. 2007-236</a>, eff. July 1, 2007; s. 1, <a href="#">ch. 2013-104</a>, eff. July 1, 2013.</p> <p><b>§ 68.082. False claims against the state; definitions; liability</b></p> <p><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.082.html">http:// www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.082.html</a></p> <p>(1) As used in this section, the term:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                 | <p>(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:</p> <ol style="list-style-type: none"><li>1. Is presented to any employee, officer, or agent of the state; or</li><li>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.</li></ol> <p>(b) "Department" means the Department of Legal Affairs, except as specifically provided in <a href="#">ss. 68.083</a> and <a href="#">68.084</a>.</p> <p>(c) "Knowing" or "knowingly" means, with respect to information, that a person:</p> <ol style="list-style-type: none"><li>(1) Has actual knowledge of the information;</li><li>(2) Acts in deliberate ignorance of the truth or falsity of the information; or</li><li>(3) Acts in reckless disregard of the truth or falsity of the information.</li></ol> <p>No proof of specific intent to defraud is required. Innocent mistake shall be a defense to an action under this act.</p> <p>(d) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>(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.</p> <p>(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.</p> <p>(2) Any person who:</p> <ol style="list-style-type: none"><li>(a) Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;</li><li>(b) Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;</li><li>(c) Conspires to commit a violation of this subsection;</li><li>(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;</li><li>(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;</li><li>(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</li><li>(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 \$ 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.</li></ol> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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:</p> <p>(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;</p> <p>(b) The person fully cooperated with any official investigation of the violation; or</p> <p>(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;</p> <p>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.</p> <p> <b>History:</b> S. 2, <a href="#">ch. 94-316</a>; s. 2, <a href="#">ch. 2007-236</a>, eff. July 1, 2007; s. 2, <a href="#">ch. 2013-104</a>, eff. July 1, 2013.</p> <p><b>Fla. Stat. § 409.9201 - Medicaid fraud</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0409/Sections/0409.9201.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0409/Sections/0409.9201.html</a></p> <p>(1) As used in this section, the term:</p> <p>(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 or in s. 465.003(8), s. 499.003(17), s. 499.007(13), or s. 499.82(10).<br/>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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>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.</p> <p><i>History - S. 9, <a href="#">ch. 2004-344</a>; s. 38, <a href="#">ch. 2008-207</a>, eff. July 1, 2008; s. 37, <a href="#">ch. 2010-161</a>, eff. July 1, 2010; s. 32, <a href="#">ch. 2014-89</a>, eff. Oct. 1, 2014; s. 12, <a href="#">ch. 2016-145</a>, eff. July 1, 2016; s. 18, <a href="#">ch. 2016-212</a>, eff. July 1, 2016; s. 26, <a href="#">ch. 2017-3</a>, eff. July 7, 2017.</i></p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>Fla. Stat. § 409.913 - Oversight of the integrity of the Medicaid program</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0409/Sections/0409.913.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0409/Sections/0409.913.html</a></p> <p>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. Beginning January 1, 2003, and each year thereafter, the agency and the Medicaid Fraud Control Unit of the Department of Legal Affairs shall submit a joint 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 <a href="#">s. 216.137</a>, 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.</p> <p class="list-item-l1">(1) For the purposes of this section, the term:</p> <p class="list-item-l2">(a) “Abuse” means:</p> <p class="list-item-l3">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.</p> <p class="list-item-l3">2. Recipient practices that result in unnecessary cost to the Medicaid program.</p> <p class="list-item-l2">(b) “Complaint” means an allegation that fraud, abuse, or an overpayment has occurred.</p> <p class="list-item-l2">(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.</p> <p class="list-item-l2">(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 and must be based upon information available at the time the goods or services are provided.</p> <p class="list-item-l2">(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.</p> <p class="list-item-l2">(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.</p> <p class="list-item-l1">(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.</p> <p class="list-item-l1">(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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 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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <ul style="list-style-type: none"><li>(a) Have actually been furnished to the recipient by the provider prior to submitting the claim.</li><li>(b) Are Medicaid-covered goods or services that are medically necessary.</li><li>(c) Are of a quality comparable to those furnished to the general public by the provider's peers.</li><li>(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.</li><li>(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.</li><li>(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.</li></ul> <p>The agency shall deny payment or require repayment for goods or services that are not presented as required in this subsection.</p> <p>(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:</p> <ul style="list-style-type: none"><li>(a) In instances involving bona fide emergency medical conditions as determined by the agency;</li><li>(b) To a provider of medical services to a patient in a hospital emergency department, hospital inpatient or outpatient setting, or nursing home;</li><li>(c) To bona fide pro bono services by preapproved non-Medicaid providers as determined by the agency;</li><li>(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;</li><li>(e) To prescriptions written for dually eligible Medicare beneficiaries by an authorized Medicare provider who is not enrolled in the Medicaid program;</li><li>(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; or</li></ul> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <u>s. 119.07(1)</u>:</p> <ul style="list-style-type: none"><li>(a) Until the agency takes final agency action with respect to the provider and requires repayment of any overpayment, or imposes an administrative sanction;</li><li>(b) Until the Attorney General refers the case for criminal prosecution;</li><li>(c) Until 10 days after the complaint is determined without merit; or</li><li>(d) At all times if the complaint or information is otherwise protected by law.</li></ul> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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 <a href="#">s. 408.809(4)</a>, <a href="#">s. 409.907(10)</a>, or <a href="#">s. 435.04(2)</a>. 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.</p> <p>(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.</p> <p>(15) The agency shall seek a remedy provided by law, including, but not limited to, any remedy provided in subsections (13) and (16) and <a href="#">s. 812.035</a>, if:</p> <ul style="list-style-type: none"><li>(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;</li><li>(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;</li><li>(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;</li><li>(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;</li><li>(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;</li><li>(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;</li><li>(g) The provider has demonstrated a pattern of failure to provide goods or services that are medically necessary;</li><li>(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;</li><li>(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;</li><li>(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;</li><li>(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;</li><li>(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;</li><li>(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;</li><li>(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;</li><li>(o) The provider has failed to comply with the notice and reporting requirements of <a href="#">s. 409.907</a>;</li><li>(p) The agency has received reliable information of patient abuse or neglect or of any act prohibited by <a href="#">s. 409.920</a>; or</li><li>(q) The provider has failed to comply with an agreed-upon repayment schedule.</li></ul> <p>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.</p> <p>(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):</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>(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.</p> <p>(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 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.</p> <p>(d) Immediate suspension, if the agency has received information of patient abuse or neglect or of any act prohibited by <a href="#">s. 409.920</a>. Upon suspension, the agency must issue an immediate final order under <a href="#">s. 120.569(2)(n)</a>.</p> <p>(e) A fine, not to exceed \$10,000, for a violation of paragraph (15)(i).</p> <p>(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.</p> <p>(g) Prepayment reviews of claims for a specified period of time.</p> <p>(h) Comprehensive followup reviews of providers every 6 months to ensure that they are billing Medicaid correctly.</p> <p>(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.</p> <p>(j) Other remedies as permitted by law to effect the recovery of a fine or overpayment.</p> <p>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.</p> <p>(17) In determining the appropriate administrative sanction to be applied, or the duration of any suspension or termination, the agency shall consider:</p> <p>(a) The seriousness and extent of the violation or violations.</p> <p>(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.</p> <p>(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.</p> <p>(d) The effect, if any, on the quality of medical care provided to Medicaid recipients as a result of the acts of the provider.</p> <p>(e) Any action by a licensing agency respecting the provider in any state in which the provider operates or has operated.</p> <p>(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.</p> <p>The agency shall document the basis for all sanctioning actions and recommendations.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>(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.</p> <p>(23)</p> <p class="list-item-l1">(a) In an audit or investigation of a violation committed by a provider which is conducted pursuant to this section, the agency is entitled to recover all investigative, legal, and expert witness costs if the agency’s findings were not contested by the provider or, if contested, the agency ultimately prevailed.</p> <p class="list-item-l1">(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.</p> <p class="list-item-l1">(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.</p> <p>(24) If the agency imposes an administrative sanction pursuant to subsection (13), subsection (14), or subsection (15), except paragraphs (15)(c) 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.</p> <p>(25)</p> <p class="list-item-l1">(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.</p> <p class="list-item-l1">(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.</p> <p class="list-item-l1">(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.</p> <p class="list-item-l1">(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.</p> <p class="list-item-l1">(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.</p> <p>(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 <a href="#">s. 812.035</a>, if the agency finds that a recipient has engaged in solicitation in violation of <a href="#">s. 409.920</a> or that the recipient has otherwise abused the Medicaid program.</p> <p>(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:</p> <p class="list-item-l1">(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:</p> <p class="list-item-l2">1. Makes repayment in full; or</p> <p class="list-item-l2">2. Establishes a repayment plan that is satisfactory to the Agency for Health Care Administration.</p> <p class="list-item-l1">(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.</p> |




| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(28) Venue for all Medicaid program integrity cases lies in Leon County, at the discretion of the agency.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <ul style="list-style-type: none"><li>(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;</li><li>(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;</li><li>(c) Monitor innovations in health information technology, specifically as it pertains to Medicaid fraud prevention and detection; and</li><li>(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.</li></ul> <p><i>History - S. 44, <a href="#">ch. 91-282</a>; s. 5, <a href="#">ch. 94-251</a>; s. 4, <a href="#">ch. 96-331</a>; s. 4, <a href="#">ch. 96-387</a>; s. 260, <a href="#">ch. 96-406</a>; s. 195, <a href="#">ch. 96-410</a>; s. 1025, <a href="#">ch. 97-103</a>; s. 70, <a href="#">ch. 99-397</a>; s. 61, <a href="#">ch. 2000-153</a>; s. 12, <a href="#">ch. 2001-377</a>; s. 30, <a href="#">ch. 2002-400</a>; s. 6, <a href="#">ch. 2004-344</a>; s. 7, <a href="#">ch. 2005-133</a>; s. 13, <a href="#">ch. 2006-2</a>, <i>eff. July 4, 2006</i>; s. 14, <a href="#">ch. 2008-143</a>, <i>eff. July 1, 2008</i>; s. 18, <a href="#">ch. 2009-223</a>, <i>eff. July 1, 2009</i>; s. 3, <a href="#">ch. 2013-150</a>, <i>eff. July 1, 2013</i>; s. 210, <a href="#">ch. 2014-19</a>, <i>eff. July 1, 2014</i>; s. 14, <a href="#">ch. 2017-129</a>, <i>eff. July 1, 2017</i>.</i></p> <hr/> <p><b>Fla. Stat. § 409.920 - Medicaid provider fraud</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0409/Sections/0409.920.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0409/Sections/0409.920.html</a></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(1) For the purposes of this section, the term:</p> <p>(a) "Agency" means the Agency for Health Care Administration.</p> <p>(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.</p> <p>(c) "Item or service" includes:</p> <ol style="list-style-type: none"><li>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</li><li>In the case of a claim based on costs, any entry in the cost report, books of account, or other documents supporting such claim.</li></ol> <p>(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.</p> <p>(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 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.</p> <p>(2) (a) A person may not:</p> <ol style="list-style-type: none"><li>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.</li><li>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.</li><li>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.</li><li>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.</li><li>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.</li><li>Knowingly submit false or misleading information or statements to the Medicaid program for the purpose of being accepted as a Medicaid provider.</li><li>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.</li></ol> <p>(b) 1. A person who violates this subsection and receives or endeavors to receive anything of value of:</p> <ol style="list-style-type: none"><li>Ten thousand dollars or less commits a felony of the third degree, punishable as provided in <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</li></ol> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>b. More than \$ 10,000, but less than \$ 50,000, commits a felony of the second degree, punishable as provided in <a href="#">§. 775.082</a>, <a href="#">§. 775.083</a>, or <a href="#">§. 775.084</a>.</p> <p>c. Fifty thousand dollars or more commits a felony of the first degree, punishable as provided in <a href="#">§. 775.082</a>, <a href="#">§. 775.083</a>, or <a href="#">§. 775.084</a>.</p> <p>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.</p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">§. 90.803(6)</a>.</p> <p>(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.</p> <p>(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.</p> <p>(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 the 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 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.</p> <p>(9) The Attorney General shall conduct a statewide program of Medicaid fraud control. To accomplish this purpose, the Attorney General shall:</p> <p>(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.</p> <p>(b) Investigate the alleged abuse or neglect of patients in health care facilities receiving payments under the Medicaid program, in coordination with the agency.</p> <p>(c) Investigate the alleged misappropriation of patients' private funds in health care facilities receiving payments under the Medicaid program.</p> <p>(d) Refer to the Office of Statewide Prosecution or the appropriate state attorney all violations indicating a substantial potential for criminal prosecution.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>(e) Refer to the agency all suspected abusive activities not of a criminal or fraudulent nature.</p> <p>(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.</p> <p>(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.</p> <p>(10) In carrying out the duties and responsibilities under this section, the Attorney General may:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p> <b>History:</b> S. 50, <a href="#">ch. 91-282</a>; s. 6, <a href="#">ch. 94-251</a>; s. 2, <a href="#">ch. 96-280</a>; s. 6, <a href="#">ch. 96-387</a>; s. 2, <a href="#">ch. 97-290</a>; s. 6, <a href="#">ch. 2000-163</a>; s. 31, <a href="#">ch. 2002-400</a>; s. 8, <a href="#">ch. 2004-344</a>; s. 19, <a href="#">ch. 2009-223</a>, eff. July 1, 2009; s. 4, <a href="#">ch. 2013-150</a>, eff. July 1, 2013.</p> <p><b>Fla. Stat. § 456.054 - Kickbacks prohibited</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0456/Sections/0456.054.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0456/Sections/0456.054.html</a></p> <p>§ 456.054. Kickbacks prohibited</p> <p>(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.</p> <p>(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.</p> <p>(3) Violations of this section shall be considered patient brokering and shall be punishable as provided in <a href="#">s. 817.505</a>.</p> <p><b>History:</b> S. 8, <a href="#">ch. 92-178</a>; s. 2, <a href="#">ch. 96-152</a>; s. 79, <a href="#">ch. 97-261</a>; s. 8, <a href="#">ch. 99-204</a>; s. 78, <a href="#">ch. 2000-160</a>; s. 6, <a href="#">ch. 2006-305</a>, eff. July 1, 2006.</p> <p><b>Fla. Stat. § 458.331 - Grounds for disciplinary action; action by the board and department</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0458/Sections/0458.331.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0458/Sections/0458.331.html</a></p> <p>(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in <a href="#">s. 456.072(2)</a>:</p> <p>(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.</p> |

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|                 | <p>(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.</p> <p>(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.</p> <p>(d) False, deceptive, or misleading advertising.</p> <p>(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.</p> <p>(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.</p> <p>(g) Failing to perform any statutory or legal obligation placed upon a licensed physician.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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> <p>(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 <a href="#">s. 743.064</a>, <a href="#">s. 766.103</a>, or <a href="#">s. 768.13</a>.</p> <p>(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.</p> <p>(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.</p> <p>(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 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 <a href="#">s. 51.011</a>. 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.</p> <p>(t) Notwithstanding <a href="#">s. 456.072(2)</a> but as specified in <a href="#">s. 456.50(2)</a>:</p> <ol style="list-style-type: none"><li>1. Committing medical malpractice as defined in <a href="#">s. 456.50</a>. The board shall give great weight to the provisions of <a href="#">s. 766.102</a> when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act.</li><li>2. Committing gross medical malpractice.</li></ol> |

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|                 | <p><b>3.</b> Committing repeated medical malpractice as defined in <a href="#">s. 456.50</a>. A person found by the board to have committed repeated medical malpractice based on <a href="#">s. 456.50</a> may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state.</p> <p>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.</p> <p><b>(u)</b> 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.</p> <p><b>(v)</b> 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.</p> <p><b>(w)</b> 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.</p> <p><b>(x)</b> 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.</p> <p><b>(y)</b> 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.</p> <p><b>(z)</b> Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.</p> <p><b>(aa)</b> Presigning blank prescription forms.</p> <p><b>(bb)</b> Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the physician for office use.</p> <p><b>(cc)</b> 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:</p> <ol style="list-style-type: none"><li>1. The treatment of narcolepsy; hyperkinesia; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;</li><li>2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or</li><li>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.</li></ol> <p><b>(dd)</b> Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, advanced registered nurse practitioners, or anesthesiologist assistants acting under the supervision of the physician.</p> <p><b>(ee)</b> 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.</p> <p><b>(ff)</b> Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.</p> <p><b>(gg)</b> Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.</p> <p><b>(hh)</b> Improperly interfering with an investigation or with any disciplinary proceeding.</p> <p><b>(ii)</b> 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.</p> <p><b>(jj)</b> 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.</p> <p><b>(kk)</b> 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.</p> <p><b>(ll)</b> Advertising or holding oneself out as a board-certified specialist, if not qualified under <a href="#">s. 458.3312</a>, in violation of this chapter.</p> <p><b>(mm)</b> Failing to comply with the requirements of <a href="#">ss. 381.026</a> and <a href="#">381.0261</a> to provide patients with information about their patient rights and how to file a patient complaint.</p> <p><b>(nn)</b> Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.</p> <p><b>(oo)</b> Providing deceptive or fraudulent expert witness testimony related to the practice of medicine.</p> <p><b>(pp)</b> Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in <a href="#">s. 458.3265</a> or <a href="#">s. 459.0137</a>:</p> <ol style="list-style-type: none"><li>1. Registering a pain-management clinic through misrepresentation or fraud;</li></ol> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>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;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in <a href="#">s. 465.003(14)</a> or <a href="#">s. 893.02</a> if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or</p> <p>9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by <a href="#">s. 458.3265(2)</a>.</p> <p>(qq) Failing to timely notify the department of the theft of prescription blanks from a pain-management clinic or a breach of other methods for prescribing within 24 hours as required by <a href="#">s. 458.3265(2)</a>.</p> <p>(rr) Promoting or advertising through any communication media the use, sale, or dispensing of any controlled substance appearing on any schedule in chapter 893.</p> <p>(ss) Dispensing a controlled substance listed in Schedule II or Schedule III in violation of <a href="#">s. 465.0276</a>.</p> <p>(tt) Willfully failing to comply with <a href="#">s. 627.64194</a> or <a href="#">s. 641.513</a> with such frequency as to indicate a general business practice.</p> <p>(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.</p> <p>(2) The board may enter an order denying licensure or imposing any of the penalties in <a href="#">s. 456.072(2)</a> 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 <a href="#">s. 456.072(1)</a>. 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.</p> <p>(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.</p> <p>(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 <a href="#">s. 456.50</a>, 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.</p> <p>(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.</p> <p>(6) Upon the department’s receipt from an insurer or self-insurer of a report of a closed claim against a physician pursuant to <a href="#">s. 627.912</a> or from a health care practitioner of a report pursuant to <a href="#">s. 456.049</a>, or upon the receipt from a claimant of a presuit notice against a physician pursuant to <a href="#">s. 766.106</a>, 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 <a href="#">s. 456.073</a> 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.</p> <p>(7) Upon the department’s receipt from the Agency for Health Care Administration pursuant to <a href="#">s. 395.0197</a> 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.</p> <p>(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.</p> <p>(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 <a href="#">s. 395.0197(6)</a>; a report of an adverse incident which is provided to the department pursuant to <a href="#">s. 395.0197</a>; a report of peer review disciplinary action submitted to the department pursuant to <a href="#">s. 395.0193(4)</a> or <a href="#">s. 458.337</a>, 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 <a href="#">s. 395.0193(8)</a> and <a href="#">458.337(3)</a>; a report of a closed claim submitted pursuant to <a href="#">s. 627.912</a>; a presuit notice submitted pursuant to <a href="#">s. 766.106(2)</a>; and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan,</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>pursuant to <a href="#">s. 766.305(2)</a>. 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.</p> <p>(10) A probable cause panel convened to consider disciplinary action against a physician assistant alleged to have violated <a href="#">s. 456.072</a> 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 <a href="#">s. 458.307(4)</a> do not apply to the appointed physician assistant. Rules need not be adopted to implement this subsection.</p> <p>(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.</p> <p><i>History - SS. 1, 8, ch. 79-302; s. 2, ch. 80-354; s. 297, ch. 81-259; ss. 2, 3, ch. 81-318; ss. 2, 4, ch. 82-32; s. 15, ch. 83-329; s. 1, ch. 85-6; s. 4, ch. 85-175; ss. 18, 25, 26, ch. 86-245; s. 25, <a href="#">ch. 88-1</a>; s. 18, <a href="#">ch. 89-275</a>; s. 16, <a href="#">ch. 89-283</a>; ss. 11, 72, <a href="#">ch. 89-374</a>; s. 2, <a href="#">ch. 90-44</a>; s. 4, <a href="#">ch. 90-60</a>; s. 26, <a href="#">ch. 90-228</a>; s. 60, <a href="#">ch. 91-220</a>; s. 4, <a href="#">ch. 91-429</a>; s. 39, <a href="#">ch. 92-149</a>; s. 1, <a href="#">ch. 92-178</a>; s. 83, <a href="#">ch. 92-289</a>; s. 218, <a href="#">ch. 96-410</a>; s. 1090, <a href="#">ch. 97-103</a>; s. 106, <a href="#">ch. 97-261</a>; s. 23, <a href="#">ch. 97-264</a>; s. 37, <a href="#">ch. 98-89</a>; s. 46, <a href="#">ch. 98-166</a>; s. 222, <a href="#">ch. 99-8</a>; s. 99, <a href="#">ch. 99-397</a>; s. 105, <a href="#">ch. 2000-160</a>; ss. 21, 76, <a href="#">ch. 2001-277</a>; s. 25, <a href="#">ch. 2003-416</a>; s. 2, <a href="#">ch. 2004-303</a>; s. 3, <a href="#">ch. 2005-240</a>; s. 3, <a href="#">ch. 2005-266</a>; s. 1, <a href="#">ch. 2006-242</a>, eff. July 1, 2006; s. 73, <a href="#">ch. 2008-6</a>, eff. July 1, 2008; s. 6, <a href="#">ch. 2010-211</a>, eff. Oct. 1, 2010; s. 6, <a href="#">ch. 2011-141</a>, eff. July 1, 2011; s. 2, <a href="#">ch. 2011-233</a>, eff. Oct. 1, 2011; s. 2, <a href="#">ch. 2013-166</a>, eff. July 1, 2013; s. 17, <a href="#">ch. 2016-145</a>, eff. July 1, 2016; s. 9, <a href="#">ch. 2016-222</a>, eff. July 1, 2016; s. 22, <a href="#">ch. 2016-224</a>, eff. Apr. 14, 2016; s. 8, <a href="#">ch. 2017-41</a>, eff. May 31, 2017; s. 4, <a href="#">ch. 2017-232</a>, eff. June 23, 2017.</i></p> <hr/> <p>TITLE 59 AGENCY FOR HEALTH CARE ADMINISTRATION<br/>DIVISION 59G MEDICAID<br/><b>CHAPTER 59G-9 OVERSIGHT OF INTEGRITY</b></p> <p>59G-9.070, F.A.C. - <b>Administrative Sanctions on Providers, Entities, and Persons.</b></p> <p>(1) Purpose. This rule provides notice of administrative sanctions imposed upon a provider, entity, or person for each violation of any Medicaid-related law.</p> <p>(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 pursuant to <a href="#">section 409.213(25)(c), F.S.</a> 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.</p> <p>(3) Definitions.</p> <ul style="list-style-type: none"><li>(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.</li><li>(b) "Claim" is as defined in <a href="#">section 409.901(6), F.S.</a>, and includes the total monthly payment to a provider for per diem payments, and the payment of a capitation rate for a Medicaid recipient.</li><li>(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.</li><li>(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.</li><li>(e) An "Erroneous claim" is an application for payment from the Medicaid program, or its fiscal agent, that contains an inaccuracy.</li><li>(f) "Fine" is a monetary sanction. The amount of a fine shall be as set forth within this rule.</li><li>(g) A "False claim" is as provided for in the Florida False Claims Act, set forth in Chapter 68, F.S.</li><li>(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.</li><li>(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.</li><li>(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.</li><li>(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.</li><li>(l) "Provider" is as defined in <a href="#">section 409.901(17), F.S.</a>, and includes all of the provider's locations that have the same base provider number (with separate locator codes).</li><li>(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.</li></ul> |

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|                 | <p>(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."</p> <p>(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> <p>(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.</p> <p>(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.</p> <ol style="list-style-type: none"><li>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."</li><li>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.</li><li>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.</li><li>4. For purposes of determining a violation regarding including an unallowed cost in a cost report (paragraph (7)(k) and <a href="#">section 409.913(15)(k), F.S.</a>), 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.</li><li>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.</li><li>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.</li></ol> <p>(4) Limits on sanctions.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(e) Where a sanction would apply pursuant to this rule, no sanction will be imposed if the Agency has instituted an amnesty pursuant to <a href="#">section 409.913(25)(e), F.S.</a></p> <p>(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.</p> <p>(6) Additional requirements regarding suspension and termination.</p> <p>(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.</p> <ol style="list-style-type: none"><li>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.</li><li>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.</li></ol> |





| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>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.</p> <p>(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 <a href="#">section 409.913(16)(f), F.S.</a>, sanctions shall be imposed as follows:</p> <p>(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 (<a href="#">section 409.913(15)(a), F.S.</a>).</p> <p>(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 (<a href="#">section 409.913(15)(b), F.S.</a>).</p> <p>(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 (<a href="#">section 409.913(15)(c), F.S.</a>).</p> <p>(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 (<a href="#">section 409.913(15)(d), F.S.</a>).</p> <p>(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 (<a href="#">sections 409.907(10)</a>, and <a href="#">409.913(14)</a> and (15)(e), F.S.).</p> <p>(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 (<a href="#">section 409.913(15)(f), F.S.</a>).</p> <p>(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 (<a href="#">section 409.913(15)(g), F.S.</a>).</p> <p>(h) For false, or a pattern of erroneous, Medicaid claims:</p> <ol style="list-style-type: none"><li>1. For false claims, termination.</li><li>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 (<a href="#">section 409.913(15)(h), F.S.</a>).</li></ol> <p>(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 (<a href="#">section 409.913(15)(i), F.S.</a>).</p> <p>(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 (<a href="#">section 409.913(15)(j), F.S.</a>).</p> <p>(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 (<a href="#">section 409.913(15)(k), F.S.</a>).</p> <p>(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 <a href="#">section 409.913(13), F.S.</a>, or a criminal offense referenced in <a href="#">section 408.809(4)</a>, <a href="#">409.907(10)</a>, or <a href="#">435.04(2), F.S.</a>: Immediate suspension for the duration of the indictment and, if convicted, termination (<a href="#">section 409.913(15)(l), F.S.</a>).</p> <p>(m) For negligently ordering or prescribing, which resulted in the patient's injury or death: immediate termination (<a href="#">section 409.913(15)(m), F.S.</a>).</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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 (<a href="#">section 409.913(15)(n), F.S.</a>).</p> <p>(o) For failure to comply with the notice and reporting requirements of <a href="#">section 409.907, F.S.</a>: For a first offense, \$ 2,500 fine. For a second offense: \$ 5,000 fine. For a third, and subsequent offense: termination (<a href="#">section 409.913(15)(o), F.S.</a>).</p> <p>(p) For a finding of patient abuse or neglect, or any act prohibited by <a href="#">section 409.920, F.S.</a>: Immediate suspension, and if convicted: termination (<a href="#">section 409.913(15)(p), F.S.</a>).</p> <p>(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 (<a href="#">sections 409.913(15)(q)</a> and <a href="#">409.913(25)(c), F.S.</a>).</p> <p>(r) For violations under <a href="#">sections 409.913(13), F.S.</a> (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 <a href="#">sections 435.04</a> and <a href="#">408.809, F.S.</a>, as related to the provider's profession, and shall impose immediate termination.</p> <p>(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 <a href="#">sections 409.913(25)(c)</a> and <a href="#">409.913(30), F.S.</a>, the Agency shall impose the sanction of termination.</p> <p>(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.</p> <p><b>Statutory Authority</b></p> <hr/> <p><b>Rulemaking Authority</b><br/><a href="#">409.919 FS.</a></p> <p><b>Law Implemented</b><br/><a href="#">409.907</a>, <a href="#">409.913</a>, <a href="#">409.920 FS.</a></p> <p><b>History</b> - New 4-19-05, Amended 4-26-06, 10-29-08, 9-7-10, 7-25-17.</p> <p><b>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</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0600-0699/0626/Sections/0626.989.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0600-0699/0626/Sections/0626.989.html</a></p> <p>(§ 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.</p> <p>(1) For the purposes of this section:</p> <p>(a) A person commits a "fraudulent insurance act" if the person:</p> <p>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.</p> <p>2. Knowingly submits:</p> <p>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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>b.</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.</p> <p><b>(b)</b> The term "insurer" also includes a health maintenance organization, and the term "insurance policy" also includes a health maintenance organization subscriber contract.</p> <p><b>(2)</b> 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 <a href="#">s. 626.9541</a> or <a href="#">s. 817.234</a>, or an act or practice punishable under <a href="#">s. 624.15</a>, 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).</p> <p><b>(3)</b> 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.</p> <p><b>(4) (a)</b> 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 <a href="#">s. 626.9541</a> or <a href="#">s. 817.234</a>, or on an act or practice punishable under <a href="#">s. 624.15</a> or is pertinent and necessary to further such investigation.</p> <p><b>(b)</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.</p> <p><b>(c)</b> 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:</p> <ol style="list-style-type: none"><li>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;</li><li>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;</li><li>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</li><li>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.</li></ol> <p><b>(d)</b> 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:</p> <ol style="list-style-type: none"><li>1. For any information related to suspected fraudulent insurance acts provided to an insurer; or</li><li>2. For any information relating to suspected fraudulent insurance acts provided to the National Insurance Crime Bureau or the National Association of Insurance Commissioners.</li></ol> <p>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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>(f) This section does not abrogate or modify in any way any common-law or statutory privilege or immunity heretofore enjoyed by any person.</p> <p>(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 <a href="#">s. 119.07(1)</a> 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 <a href="#">s. 119.07(1)</a> if disclosure would:</p> <p>(a) Jeopardize the integrity of another active investigation;</p> <p>(b) Impair the safety and soundness of an insurer;</p> <p>(c) Reveal personal financial information;</p> <p>(d) Reveal the identity of a confidential source;</p> <p>(e) Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual; or</p> <p>(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.</p> <p>(6) 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 <a href="#">s. 817.234</a>, 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 <a href="#">s. 766.101</a>, 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 <a href="#">s. 817.234</a>, 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. 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 <a href="#">s. 817.234</a>, is being committed. 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 with respect to any such violation, as provided in <a href="#">s. 624.310</a>. If prosecution by the state attorney or other prosecuting agency having jurisdiction with respect to such violation is not begun within 60 days of the division's report, the state attorney or other prosecuting agency having jurisdiction with respect to such violation shall inform the division of the reasons for the lack of prosecution.</p> <p>(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 <a href="#">s. 943.1395</a> or must meet the temporary employment or appointment exemption requirements of <a href="#">s. 943.131</a> until certified.</p> <p>(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</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>imposed upon them by law or department rule.</p> <p>(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:</p> <p>(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.</p> <p>(b) The number of referrals received from insurers and the Division of Workers' Compensation and the outcome of those referrals.</p> <p>(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.</p> <p>(d) The number of investigations that resulted in a referral to a regulatory agency and the disposition of those referrals.</p> <p>(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.</p> <p>(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.</p> <p>(g) The average caseload and turnaround time by type of case for each investigator and division compliance employee.</p> <p>(h) The training provided during the year to workers' compensation fraud investigators and the division's compliance employees.</p> <p> <b>History:</b> S. 9, ch. 76-266; s. 211, ch. 77-104; s. 20, ch. 77-468; s. 2, ch. 78-258; s. 2, ch. 79-81; s. 237, ch. 79-400; s. 3, ch. 81-48; ss. 807, 810, ch. 82-243; s. 92, ch. 83-216; s. 30, ch. 83-288; s. 1, <a href="#">ch. 87-334</a>; s. 1, <a href="#">ch. 89-42</a>; ss. 189, 206, 207, <a href="#">ch. 90-363</a>; s. 4, <a href="#">ch. 91-429</a>; s. 11, <a href="#">ch. 92-324</a>; s. 10, <a href="#">ch. 93-80</a>; s. 8, <a href="#">ch. 93-252</a>; s. 224, <a href="#">ch. 94-218</a>; s. 5, <a href="#">ch. 95-340</a>; s. 378, <a href="#">ch. 96-406</a>; s. 1729, <a href="#">ch. 97-102</a>; s. 15, <a href="#">ch. 98-174</a>; s. 2, <a href="#">ch. 99-204</a>; s. 4, <a href="#">ch. 2001-271</a>; s. 87, <a href="#">ch. 2001-277</a>; s. 66, <a href="#">ch. 2002-194</a>; s. 5, <a href="#">ch. 2003-148</a>; s. 1041, <a href="#">ch. 2003-261</a>; s. 43, <a href="#">ch. 2003-412</a>; s. 77, <a href="#">ch. 2004-390</a>; s. 4, <a href="#">ch. 2012-197</a>, eff. July 1, 2012; s. 105, <a href="#">ch. 2013-15</a>, eff. July 2, 2013; s. 15, <a href="#">ch. 2016-165</a>, eff. July 1, 2016.</p> <p><b>Fla. Stat. § 641.37 - Prohibited activities; penalties</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0600-0699/0641/Sections/0641.37.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0600-0699/0641/Sections/0641.37.html</a></p> <p>(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 <a href="#">s. 775.082</a> or <a href="#">s. 775.083</a>.</p> <p>(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 <a href="#">s. 775.082</a> or <a href="#">s. 775.083</a>.</p> <p>(3) Any agent or representative, examining physician, applicant, or other person who knowingly makes any false and <b>fraudulent</b> 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 <a href="#">s. 775.082</a> or <a href="#">s. 775.083</a>.</p> <p>(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 <a href="#">s. 775.082</a> or <a href="#">s. 775.083</a>.</p> <p>(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 <a href="#">s. 775.082</a></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>or <a href="#">s. 775.083</a>.</p> <p> <b>History:</b> 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, <a href="#">ch. 87-226</a>; ss. 187, 188, <a href="#">ch. 91-108</a>; s. 164, <a href="#">ch. 91-224</a>; s. 4, <a href="#">ch. 91-429</a>; s. 26, <a href="#">ch. 96-199</a>; s. 70, <a href="#">ch. 2002-206</a>.</p> <p><b>Fla. Stat. § 641.3903 - Unfair methods of competition and unfair or deceptive acts or practices defined</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0600-0699/0641/Sections/0641.3903.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0600-0699/0641/Sections/0641.3903.html</a></p> <p>The following are defined as unfair methods of competition and unfair or deceptive acts or practices:</p> <p>(1) <i>Misrepresentation and false advertising of health maintenance contracts.</i> --Knowingly making, issuing, or circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:</p> <p>(a) Misrepresents the benefits, advantages, conditions, or terms of any health maintenance contract.</p> <p>(b) Is misleading, or is a misrepresentation as to the financial condition of any person.</p> <p>(c) Uses any name or title of any contract misrepresenting the true nature thereof.</p> <p>(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 <a href="#">s. 624.603</a>.</p> <p>(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.</p> <p>(f) Misrepresents the affiliation, connection, or association of any goods, services, or business establishment.</p> <p>(g) Advertises goods or services with intent not to sell them as advertised.</p> <p>(h) Disparages the goods, services, or business of another person by any false or misleading representation.</p> <p>(i) Misrepresents the sponsorship, endorsement, approval, or certification of goods or services.</p> <p>(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.</p> <p>(k) Offers to provide a service which the health maintenance organization is unable to provide.</p> <p>(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.</p> <p>(2) <i>False information and advertising generally.</i> --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:</p> <p>(a) In a newspaper, magazine, or other publication;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>(b) In the form of a notice, circular, pamphlet, letter, or poster;</p> <p>(c) Over any radio or television station; or</p> <p>(d) In any other way,</p> <p>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.</p> <p>(3) <i>Defamation.</i> --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.</p> <p>(4) <i>False statements and entries.</i></p> <p>(a) Knowingly:</p> <ol style="list-style-type: none"><li>1. Filing with any supervisory or other public official,</li><li>2. Making, publishing, disseminating, or circulating,</li><li>3. Delivering to any person,</li><li>4. Placing before the public, or</li><li>5. Causing, directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or place before the public,</li></ol> <p>any material false statement.</p> <p>(b) Knowingly making any false entry of a material fact in any book, report, or statement of any person.</p> <p>(5) <i>Unfair claim settlement practices.</i></p> <p>(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;</p> <p>(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</p> <p>(c) Committing or performing with such frequency as to indicate a general business practice any of the following:</p> <ol style="list-style-type: none"><li>1. Failing to adopt and implement standards for the proper investigation of claims;</li><li>2. Misrepresenting pertinent facts or contract provisions relating to coverage at issue;</li><li>3. Failing to acknowledge and act promptly upon communications with respect to claims;</li></ol> |





| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>4. Denying of claims without conducting reasonable investigations based upon available information;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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</p> <p>9. Systematic downcoding with the intent to deny reimbursement otherwise due.</p> <p>(6) <i>Failure to maintain complaint-handling procedures.</i> --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.</p> <p>(7) <i>Operation without a subsisting certificate of authority.</i> --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.</p> <p>(8) <i>Misrepresentation in health maintenance organization applications.</i> --Knowingly making false or <b>fraudulent</b> 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.</p> <p>(9) <i>Twisting.</i> --Knowingly making any misleading representations or incomplete or <b>fraudulent</b> 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.</p> <p>(10) <i>Illegal dealings in premiums; excess or reduced charges for health maintenance coverage.</i></p> <p>(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.</p> <p>(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.</p> <p>(11) <i>False claims; obtaining or retaining money dishonestly.</i> --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.</p> <p>(12) <i>Prohibited discriminatory practices.</i> --A health maintenance organization may not:</p> |




| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>(a) Engage or attempt to engage in discriminatory practices that discourage participation on the basis of actual or perceived health status of Medicaid recipients.</p> <p>(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 <a href="#">s. 741.28</a>, or by another who is or was residing in the same dwelling unit.</p> <p>(13) <i>Misrepresentation in health maintenance organization; availability of providers.</i> --Knowingly misleading potential enrollees as to the availability of providers.</p> <p>(14) <i>Adverse action against a provider.</i> --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.</p> <p>(15) <i>Participation in a wellness or health improvement program..</i></p> <p>(a) <i>Authorization to offer rewards or incentives for participation..</i> --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.</p> <p>(b) <i>Verification of medical condition by nonparticipants due to medical condition..</i> --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.</p> <p>(c) <i>Disclosure requirement..</i> --A reward or incentive offered under this subsection shall be disclosed in the policy or certificate.</p> <p>(d) <i>Other incentives..</i> --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.</p> <p> <b>History:</b> SS. 36, 47, ch. 85-177; ss. 187, 188, <a href="#">ch. 91-108</a>; s. 4, <a href="#">ch. 91-429</a>; s. 28, <a href="#">ch. 96-199</a>; s. 6, <a href="#">ch. 96-223</a>; s. 1, <a href="#">ch. 99-264</a>; s. 5, <a href="#">ch. 2000-252</a>; s. 8, <a href="#">ch. 2002-55</a>; s. 1591, <a href="#">ch. 2003-261</a>; s. 2, <a href="#">ch. 2011-167</a>, eff. July 1, 2011.</p> <p>-----</p> <p>Fla. Stat. § 414.39 - <b>Fraud.</b></p> <p>(1) Any person who knowingly:</p> <p>    <b>(a)</b> 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;</p> <p>    <b>(b)</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</p> <p>    <b>(c)</b> Aids and abets another person in the commission of any such act,</p> <p>commits a crime and shall be punished as provided in subsection (5).</p> <p>(2) <b>(a)</b> Any person who knowingly:</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>1. Uses, transfers, acquires, traffics, alters, forges, or possesses;</p> <p>2. Attempts to use, transfer, acquire, traffic, alter, forge, or possess; or</p> <p>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).</p> <p>(b) As used in this subsection, the term "traffic" includes:</p> <p>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;</p> <p>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;</p> <p>3. Exchanging firearms, ammunition, explosives, or controlled substances, as defined in <a href="#">s. 893.02</a>, for food assistance benefits;</p> <p>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</p> <p>5. Intentionally purchasing products originally purchased with food assistance benefits in exchange for cash or consideration other than eligible food.</p> <p>(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 <a href="#">s. 775.082</a> or <a href="#">s. 775.083</a>. A second or subsequent violation of this paragraph constitutes a felony of the third degree, punishable as provided in <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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.</p> <p>(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:</p> <p>(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</p> <p>(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,</p> <p>commits a crime and shall be punished as provided in subsection (5).</p> <p>(4) Any person who:</p> <p>(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</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>excess of that provided for by law or regulation;</p> <p>(b) Knowingly fails to credit the state or its agent for payments received from social security, insurance, or other sources; or</p> <p>(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,</p> <p>commits a crime and shall be punished as provided in subsection (5).</p> <p>(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 <a href="#">s. 775.082</a> or <a href="#">s. 775.083</a>.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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 <a href="#">s. 775.082</a>, <a href="#">s. 775.083</a>, or <a href="#">s. 775.084</a>.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">s. 775.082</a> or <a href="#">s. 775.083</a>.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">s. 414.411</a> and are admissible into evidence in proceedings brought under this section as business records within the meaning of <a href="#">s. 90.803(6)</a>.</p> <p>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p><b>(11) (a)</b> 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:</p> <ol style="list-style-type: none"><li>1. Are made to the department, the Department of Financial Services, or the Department of Law Enforcement.</li><li>2. Relate to criminal fraud upon public assistance program funds or a criminal violation of public assistance fraud laws by another person.</li><li>3. Lead to the recovery of a fine, penalty, or forfeiture of property.</li></ol> <p><b>(b)</b> The reward may not exceed 10 percent of the amount recovered or \$ 500,000, whichever is less, in a single case.</p> <p><b>(c)</b> The reward shall be paid from the state share of the recovery in the Federal Grants Trust Fund from moneys collected pursuant to <a href="#">s. 414.41</a>.</p> <p><b>(d)</b> 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.</p> <p> <b>History:</b> 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, <a href="#">ch. 92-125</a>; s. 42, <a href="#">ch. 96-175</a>; s. 218, <a href="#">ch. 97-101</a>; s. 1037, <a href="#">ch. 97-103</a>; s. 30, <a href="#">ch. 97-173</a>; s. 9, <a href="#">ch. 99-333</a>; s. 67, <a href="#">ch. 2000-153</a>; s. 46, <a href="#">ch. 2000-165</a>; s. 10, <a href="#">ch. 2010-144</a>, eff. Jan. 1, 2011; s. 30, <a href="#">ch. 2010-209</a>, eff. July 1, 2010; s. 229, <a href="#">ch. 2014-19</a>, eff. July 1, 2014; s. 1, <a href="#">ch. 2014-119</a>, eff. Oct. 1, 2014; s. 1, <a href="#">ch. 2016-185</a>, eff. Oct. 1, 2016.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>Fla. Stat. § 68.083. Civil actions for false claims</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.083.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.083.html</a></p> <p>(1) The department may diligently investigate a violation under <a href="#">s. 68.082</a>. If the department finds that a person has violated or is violating <a href="#">s. 68.082</a>, 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.</p> <p>(2) <b>A person may bring a civil action for a violation of <a href="#">s. 68.082</a></b> 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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(6) Before the expiration of the 60-day period or any extensions obtained under subsection (5), the department shall:</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(a) Proceed with the action, in which case the action is conducted by the department on behalf of the state; or</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">s. 68.082</a> is confidential and exempt from <a href="#">s. 119.07(1)</a> and <a href="#">s. 24(a), Art. I of the State Constitution</a>.</p> <p>(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.</p> <p>(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.</p> <p>(d) For purposes of this subsection, an investigation is considered complete:</p> <ol style="list-style-type: none"><li>1. Under subsection (1) once the department either files its own action or closes its investigation without filing an action.</li><li>2. Under subsection (2) upon the unsealing of the qui tam action or its voluntary dismissal prior to any unsealing.</li></ol> <p> <b>History:</b> S. 3, <a href="#">ch. 94-316</a>; s. 103, <a href="#">ch. 2003-261</a>; s. 3, <a href="#">ch. 2007-236</a>, eff. July 1, 2007; s. 3, <a href="#">ch. 2013-104</a>, eff. July 1, 2013; s. 1, <a href="#">ch. 2013-105</a>, eff. July 1, 2013. <a href="#">Laws 2018, c. 2018-75, § 1, eff. Oct. 1, 2018.</a></p> <p><b>68.085 Awards to plaintiffs bringing action.—</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.085.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.085.html</a></p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">s. 409.2203</a>. Any remaining proceeds, including civil penalties awarded under <a href="#">s. 68.082</a>, shall be deposited in the General Revenue Fund.</p> <p>(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 <a href="#">s. 68.082</a> upon which the action was brought, the</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>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 <a href="#">s. 68.082</a>, the 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 department to continue the action.</p> <p> <b>History:</b> S. 5, <a href="#">ch. 94-316</a>; s. 11, <a href="#">ch. 95-153</a>; s. 5, <a href="#">ch. 2007-236</a>, eff. July 1, 2007; s. 2, <a href="#">ch. 2009-223</a>, eff. July 1, 2009; s. 22, <a href="#">ch. 2010-162</a>, eff. July 1, 2010; s. 6, <a href="#">ch. 2013-104</a>, eff. July 1, 2013.</p> <p><b>Fla. Stat. § 68.086. Expenses; attorney's fees and costs</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.086.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.086.html</a></p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p> <b>History:</b> S. 6, <a href="#">ch. 94-316</a>; s. 2, <a href="#">ch. 2009-193</a>, eff. June 16, 2009; s. 3, <a href="#">ch. 2009-223</a>, eff. July 1, 2009; s. 7, <a href="#">ch. 2013-104</a>, eff. July 1, 2013.</p> <p><b>Fla. Stat. § 409.9203 - Rewards for reporting Medicaid fraud</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0409/Sections/0409.9203.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0400-0499/0409/Sections/0409.9203.html</a></p> <p>(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:</p> <p class="list-item-l1">(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;</p> <p class="list-item-l1">(b) Relates to criminal fraud upon Medicaid funds or a criminal violation of Medicaid laws by another person; and</p> <p class="list-item-l1">(c) Leads to a recovery of a fine, penalty, or forfeiture of property.</p> <p>(2) The reward may not exceed the lesser of 25 percent of the amount recovered or \$ 500,000 in a single case.</p> <p>(3) The reward shall be paid from the Operating Trust Fund from moneys collected pursuant to <a href="#">s. 68.085</a>.</p> <p>(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.</p> <p>(5) Notwithstanding <a href="#">s. 68.085(3)</a>, 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:</p> <p class="list-item-l1">(a) Fifty percent of such moneys shall be used to fund rewards for reporting Medicaid fraud pursuant to this section.</p> <p class="list-item-l1">(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 <a href="#">s. 68.082</a> and any related civil actions.</p> <p> <b>History:</b> S. 20, <a href="#">ch. 2009-223</a>, eff. July 1, 2009; s. 2, <a href="#">ch. 2013-207</a>, eff. July 1, 2013; s. 3, <a href="#">ch. 2015-92</a>, eff. July 1, 2015.</p> |



| State /Citation                                                                                                                                                          | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                                                                                                                                                                          | <p><b>Fla. Stat. § 626.9892 - Anti-Fraud Reward Program; reporting of insurance fraud</b><br/><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0600-0699/0626/Sections/0626.9892.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0600-0699/0626/Sections/0626.9892.html</a></p> <p><b>Anti-Fraud Reward Program; reporting of insurance fraud.</b></p> <p>(1) The Anti-Fraud Reward Program is hereby established within the department, to be funded from the Insurance Regulatory Trust Fund.</p> <p>(2) The department may pay rewards of up to \$ 25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the department arising from violations of <a href="#">s. 440.105</a>, <a href="#">s. 624.15</a>, <a href="#">s. 626.9541</a>, <a href="#">s. 626.982</a>, <a href="#">s. 790.164</a>, <a href="#">s. 790.165</a>, <a href="#">s. 790.166</a>, <a href="#">s. 806.031</a>, <a href="#">s. 806.10</a>, <a href="#">s. 806.111</a>, <a href="#">s. 817.233</a>, or <a href="#">s. 817.234</a>.</p> <p>(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.</p> <p>(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.</p> <p>(5) Determinations by the department to grant or deny a reward under this section shall not be considered agency action subject to review under <a href="#">s. 120.569</a> or <a href="#">s. 120.57</a>.</p> <p> <b>History:</b> S. 3, <a href="#">ch. 99-204</a>; s. 19, <a href="#">ch. 2002-236</a>; s. 1042, <a href="#">ch. 2003-261</a>; s. 17, <a href="#">ch. 2016-132</a>, eff. July 1, 2016; s. 17, <a href="#">ch. 2016-165</a>, eff. July 1, 2016.</p> |
|                                                                                                                                                                          | <p><b>Whistle-blower Protections</b></p> <p><b>Fla. Stat. § 68.088. Protection for participating employees</b></p> <p><a href="http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.088.html">http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&amp;Search_String=&amp;URL=0000-0099/0068/Sections/0068.088.html</a></p> <p>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.</p> <p><b>History:</b> S. 8, <a href="#">ch. 94-316</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><i>Georgia</i>/ State False Medicaid Claims Act 49-4-168</p> <p>O.C.G.A. § 49-4-168 et seq.</p> <p>O.C.G.A. § 49-4-140 et seq.</p> <p>O.C.G.A. § 23-3-120 et seq.</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://dch.georgia.gov/office-inspector-general">https://dch.georgia.gov/office-inspector-general</a><br/><a href="https://dch.georgia.gov/office-inspector-general/georgia-oig-exclusions-list">https://dch.georgia.gov/office-inspector-general/georgia-oig-exclusions-list</a><br/><a href="https://dch.georgia.gov/contacts/report-fraud-waste-and-abuse">https://dch.georgia.gov/contacts/report-fraud-waste-and-abuse</a><br/><a href="https://dch.georgia.gov/office-inspector-general/report-medicaidpeachcare-kids-fraud">https://dch.georgia.gov/office-inspector-general/report-medicaidpeachcare-kids-fraud</a></p> <p>O.C.G.A. TITLE 49 Chapter 4 Article 7B<br/>"This Act shall be known and may be cited as the 'State False Medicaid Claims Act.'"</p> <p><b>O.C.G.A. § 49-4-168 - Definitions</b><br/>As used in this article, the term:</p> <p>(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</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>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, 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.</p> <p>(2) "Knowing" and "knowingly" require no proof of specific intent to defraud and mean that a person, with respect to information:</p> <p>(A) Has actual knowledge of the information;</p> <p>(B) Acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(C) Acts in reckless disregard of the truth or falsity of the information.</p> <p>(3) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> Code 1981, § <i>49-4-168</i>, 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.</p> <p><b>O.C.G.A. §49-4-168.1. - Civil penalties for false or fraudulent Medicaid claims</b></p> <p>(a) Any person who:</p> <p>(1) Knowingly presents or causes to be presented to the Georgia Medicaid program a false or fraudulent claim for payment or approval;</p> <p>(2) Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;</p> <p>(3) Conspires to commit a violation of paragraph (1), (2), (4), (5), (6), or (7) of this subsection;</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(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, <a href="#">31 U.S.C. 3729(a)</a>, as adjusted by the federal Civil Penalties Inflation Adjustment Act of 1990 (<a href="#">28 U.S.C. 2461</a>; 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.</p> <p>(b) The provisions of subsection (a) of this Code section notwithstanding, if the court finds that:</p> <p>(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;</p> <p>(2) Such person fully cooperated with any government investigation of such violation; and</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>History: Code 1981, <a href="#">§ 49-4-168.1</a>, enacted by <a href="#">Ga. L. 2007, p. 355, § 3/HB 551</a>; <a href="#">Ga. L. 2009, p. 8, § 49/SB 46</a>; <a href="#">Ga. L. 2012, p. 127, § 2-1/HB 822</a>; <a href="#">Ga. L. 2014, p. 77, § 1/HB 973</a>; <a href="#">Ga. L. 2018, p. 240, § 1/SB 321</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                 | <p>TITLE 23. EQUITY<br/>CHAPTER 3. EQUITABLE REMEDIES AND PROCEEDINGS GENERALLY<br/>ARTICLE 6. TAXPAYER PROTECTION AGAINST FALSE CLAIMS</p> <p><b>O.C.G.A. § 23-3-120 - Definitions</b><br/>As used in this article, the term:</p> <p>(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:</p> <p>(A) Presented to an officer, employee, or agent of the state or local government;</p> <p>(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:</p> <p>(i) Provides or has provided any portion of the money or property requested or demanded; or</p> <p>(ii) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.</p> <p>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.</p> <p>(2) "Knowing" and "knowingly" mean that a person, with respect to information:</p> <p>(A) Has actual knowledge of the information;</p> <p>(B) Acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(C) Acts in reckless disregard of the truth or falsity of the information.</p> <p>No proof of specific intent to defraud is required.</p> <p>(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.</p> <p>(4) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 23-3-120</a>, enacted by <a href="#">Ga. L. 2012, p. 127, § 1-2/HB 822</a>; <a href="#">Ga. L. 2013, p. 141, § 23/HB 79</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p><b>O.C.G.A. § 23-3-121 - Submission of false information; liability; no application to taxation</b></p> <p>(a) Any person, firm, corporation, or other legal entity that:</p> <p>(1) Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;</p> <p>(2) Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;</p> <p>(3) Conspires to commit a violation of paragraph (1), (2), (4), (5), (6), or (7) of this subsection;</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(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</p> <p>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.</p> <p>(b) The provisions of subsection (a) of this Code section notwithstanding, if the court finds that:</p> <p>(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;</p> <p>(2) Such person fully cooperated with any government investigation of such violation; and</p> <p>(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,</p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>(e) This Code section shall not apply to claims, records, or statements made concerning taxes under the revenue laws of this state.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 23-3-121</a>, enacted by <a href="#">Ga. L. 2012, p. 127, § 1-2/HB 822</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p><b>O.C.G.A. § 23-3-125 - Civil investigative demands</b></p> <p>(a) As used in this Code section, the term:</p> <p>(1) "Custodian" means the custodian, or any deputy custodian, designated by the Attorney General under paragraph (1) of subsection (j) of this Code section.</p> <p>(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.</p> <p>(3) "False claims law" means:</p> <p>(A) This article; and</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(8) "Product of discovery" includes:</p> <p>(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;</p> <p>(B) Any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A) of this paragraph; and</p> <p>(C) Any index or other manner of access to any item listed in subparagraph (A) of this paragraph.</p> <p>(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 <a href="#">Code Section 23-3-122</a> or other false claims law, or making an election under subsection (b) of <a href="#">Code Section 23-3-122</a>, issue in writing and cause to be served upon such person a civil investigative demand requiring such person to:</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                 | <p>(A) Produce such documentary material for inspection and copying;</p> <p>(B) Answer in writing written interrogatories with respect to such documentary material or information;</p> <p>(C) Give oral testimony concerning such documentary material or information; or</p> <p>(D) Furnish any combination of such documentary material, answers, or testimony.</p> <p>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.</p> <p>(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.</p> <p>(B) If such demand is for the production of documentary material, the demand shall:</p> <p>(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;</p> <p>(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</p> <p>(iii) Identify the false claims law investigator to whom such documentary material shall be made available.</p> <p>(C) If such demand is for answers to written interrogatories, the demand shall:</p> <p>(i) Set forth with specificity the written interrogatories to be answered;</p> <p>(ii) Prescribe dates at which time the answers to such written interrogatories shall be submitted; and</p> <p>(iii) Identify the false claims law investigator to whom such answers shall be submitted.</p> <p>(D) If such demand is for the giving of oral testimony, the demand shall:</p> <p>(i) Prescribe a date, time, and place at which the oral testimony shall be commenced;</p> <p>(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;</p> <p>(iii) Specify that such attendance and testimony are necessary to the conduct of the investigation;</p> <p>(iv) Notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and</p> <p>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(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;</p> <p>(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</p> <p>(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.</p> <p>(2) Service of any such demand or petition may be made upon any natural person by:</p> <p>(A) Delivering an executed copy of such demand or petition to the person; or</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(A) In the case of a natural person, the person to whom the demand is directed; or</p> <p>(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.</p> <p>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.</p> <p>(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.</p> <p>(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:</p> <p>(1) In the case of a natural person, the person to whom the demand is directed; or</p> <p>(2) In the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.</p> <p>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.</p> <p>(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."</p> <p>(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.</p> <p>(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.</p> |

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|                 | <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(D) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe:</p> <p>(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(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</p> <p>(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,</p> <p>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.</p> <p>(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:</p> <p>(A) Designate another false claims law investigator to serve as custodian of such documentary material, answers, or transcripts; and</p> <p>(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.</p> <p>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.</p> <p>(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.</p> <p>(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:</p> <p>(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</p> <p>(ii) Within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.</p> <p>(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>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.</p> <p>(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:</p> <p>(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</p> <p>(ii) Within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 23-3-125</a>, enacted by <a href="#">Ga. L. 2012, p. 127, § 1-2/HB 822</a>; <a href="#">Ga. L. 2014, p. 866, § 23/SB 340</a>; <a href="#">Ga. L. 2016, p. 846, § 23/HB 737</a>.</p> <p><b>O.C.G.A. § 23-3-126 - Remedies nonexclusive; construction of provisions</b></p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 23-3-126</a>, enacted by <a href="#">Ga. L. 2012, p. 127, § 1-2/HB 822</a>.</p> <p><b>O.C.G.A. § 23-3-127 - Proceedings involving Medicaid</b></p> <p>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.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 23-3-127</a>, enacted by <a href="#">Ga. L. 2012, p. 127, § 1-2/HB 822</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                 | <p>O.C.G.A. § 49-4-140 - Short title<br/>The short title for this article shall be the <b>"Georgia Medical Assistance Act of 1977."</b></p> <p><b>§ 49-4-141. Definitions</b></p> <p>(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 application has not been acted upon favorably.</p> <p>(2) "Board" means the Board of Community Health established under Chapter 2 of Title 31.</p> <p>(3) "Commissioner" means the commissioner of the department.</p> <p>(4) "Department" means the Department of Community Health established under Chapter 2 of Title 31.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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).</p> <p>(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.</p> <p><b>HISTORY:</b> Ga. L. 1977, p. 384, § 3; Ga. L. 1979, p. 1293, § 1; Ga. L. 1994, p. 97, § 49; Ga. L. 1999, p. 296, § 17; <a href="#">Ga. L. 2002, p. 453, § 1-7/HB 228</a>.</p> <p><b>O.C.G.A. § 49-4-146.1 - Unlawful acts; violations and penalties; recovery of excess amounts; termination and reinstatement of providers; duty of department to identify and investigate violations and notify proper authorities; authorization to obtain income eligibility verification from Department of Revenue</b></p> <p>(a) As used in this Code section, the term:</p> <p>(1) "Agent" means any person who has been delegated the authority to obligate or act on behalf of a provider.</p> <p>(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.</p> <p>(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.</p> |

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|                 | <p>(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.</p> <p>(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.</p> <p>(6) "Person" means any person, firm, corporation, partnership, or other entity.</p> <p>(7) "Person with an ownership or control interest" means a person who:</p> <p>(A) Has ownership interest totaling 5 percent or more in a provider;</p> <p>(B) Has an indirect ownership interest equal to 5 percent or more in a provider;</p> <p>(C) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a provider;</p> <p>(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;</p> <p>(E) Is an officer or director of a provider that is organized as a corporation; or</p> <p>(F) Is a partner in a provider entity that is organized as a partnership.</p> <p>(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.</p> <p>(b) It shall be unlawful:</p> <p>(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:</p> <p>(A) Knowingly and willfully making a false statement or false representation;</p> <p>(B) Deliberate concealment of any material fact; or</p> <p>(C) Any fraudulent scheme or device; or</p> <p>(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.</p> <p>(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.</p> |

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|                 | <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(1) Convicted of violating paragraph (1) or (2) of subsection (b) of this Code section;</p> <p>(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, as amended; or</p> <p>(3) Excluded or suspended from participation in the medicare program for fraud or abuse.</p> <p>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.</p> <p>(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:</p> |



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|                 | <p>(1) Violating subsection (b) of this Code section; or</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">Section 6103 of the Internal Revenue Code</a> 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 <a href="#">Code Section 48-7-60</a> and to all penalties provided under <a href="#">Code Section 48-7-61</a> for unlawful divulging of confidential tax information.</p> <p><b>HISTORY:</b> Ga. L. 1981, p. 962, § 1; Ga. L. 1985, p. 1395, §§ 1, 2; Ga. L. 1994, p. 97, § 49; Ga. L. 1997, p. 679, § 1; Ga. L. 1997, p. 1596, § 1; Ga. L. 1998, p. 128, § 49; Ga. L. 1998, p. 664, § 1; <a href="#">Ga. L. 2006, p. 775, § 2/SB 572</a>; <a href="#">Ga. L. 2007, p. 47, § 49/SB 103</a>; <a href="#">Ga. L. 2009, p. 63, § 1/SB 165</a>.</p> <p>TITLE 16. CRIMES AND OFFENSES<br/>CHAPTER 10. OFFENSES AGAINST PUBLIC ADMINISTRATION<br/>ARTICLE 2. OBSTRUCTION OF PUBLIC ADMINISTRATION AND RELATED OFFENSES</p> <p><b>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</b></p> <p>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.</p> <p><b>HISTORY:</b> Code 1933, § 26-2408, enacted by Ga. L. 1976, p. 483, § 1; Ga. L. 1979, p. 1068, § 1; Ga. L. 1982, p. 3, § 16.</p> <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>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</b></p> <p>(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.</p> <p>(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.</p> <p>(c) Where a private person brings a civil action under this article, such person shall follow the following special procedures:</p> <p>(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;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>(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;</p> <p>(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;</p> <p>(4) Before the expiration of the 60 day period or any extensions obtained under paragraph (3) of this subsection, the Attorney General shall:</p> <p>(A) Proceed with the civil action, in which case the civil action shall be conducted by the Attorney General; or</p> <p>(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;</p> <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(A) Limiting the number of witnesses the person may call;</p> <p>(B) Limiting the length of the testimony of such witnesses;</p> <p>(C) Limiting the person's cross-examination of witnesses; or</p> <p>(D) Otherwise limiting the participation by the person in the litigation.</p> <p>(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.</p> <p>(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.</p> |

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|                 | <p>(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.</p> <p>(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.</p> <p>(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 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.</p> <p>(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.</p> <p>(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 <a href="#">Code Section 49-4-168.1</a> 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 <a href="#">Code Section 49-4-168.1</a>, 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.</p> <p>(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.</p> <p>(5) The State of Georgia shall not be liable for expenses which a private person incurs in bringing a civil action under this article.</p> <p>(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.</p> <p>(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.</p> <p>(l) (1) As used in this subsection, the term "original source" means an individual who:</p> |

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|                 | <p>(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</p> <p>(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.</p> <p>(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:</p> <p>(A) In any criminal, civil, or administrative hearing in which the State of Georgia or its employee, agent, or contractor is a party;</p> <p>(B) In a legislative or other Georgia report, hearing, audit, or investigation; or</p> <p>(C) From the news media,</p> <p>unless the civil action is brought by the Attorney General or the person bringing the civil action is an original source of the information.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 49-4-168.2</a>, enacted by <a href="#">Ga. L. 2007, p. 355, § 3/HB 551</a>; <a href="#">Ga. L. 2009, p. 8, § 49/SB 46</a>; <a href="#">Ga. L. 2012, p. 127, § 2-1/HB 822</a>; <a href="#">Ga. L. 2013, p. 141, § 49/HB 79</a>; <a href="#">Ga. L. 2014, p. 77, § 2/HB 973</a>.</p> <p><b>O.C.G.A. § 23-3-122 - Investigations by Attorney General; civil actions authorized; intervention by government; limitation on participating in litigation; stay of discovery; alternative remedies; division of recovery; limitations</b></p> <p>(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 <a href="#">Code Section 23-3-121</a> 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 <a href="#">Code Section 23-3-121</a>. 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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(A) Proceed with the civil action, in which case the civil action shall be conducted by the state or local government; or</p> |

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|                 | <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(A) Limiting the number of witnesses the person may call;</p> <p>(B) Limiting the length of the testimony of such witnesses;</p> <p>(C) Limiting the person's cross-examination of witnesses; or</p> <p>(D) Otherwise limiting the participation of the person in the litigation.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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</p> |

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|                 | <p>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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(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</p> <p>(2) Information or records to which such person had access as a result of his or her public employment or office.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(A) In a state criminal, civil, or administrative hearing in which the state or local government or its agent is a party;</p> <p>(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>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</p> <p>(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:</p> <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(3) A civil action under this subsection shall not be brought more than three years after the date when the discrimination occurred.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 23-3-122</a>, enacted by <a href="#">Ga. L. 2012, p. 127, § 1-2/HB 822</a>; <a href="#">Ga. L. 2013, p. 141, § 23/HB 79</a>.</p> <p><b>O.C.G.A. § 49-4-168.3 - Standard of proof; procedure; intervention by Attorney General</b></p> <p>(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.</p> <p>(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."</p> <p>(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.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 49-4-168.3</a>, enacted by <a href="#">Ga. L. 2007, p. 355, § 3/HB 551</a>; <a href="#">Ga. L. 2012, p. 127, § 2-1/HB 822</a>.</p> <p><b>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</b></p> <p>(a) Except as provided in paragraph (3) of subsection (l) of <a href="#">Code Section 23-3-122</a>, all civil actions under this article shall be filed pursuant to <a href="#">Code Section 23-3-122</a> 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.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(b) A subpoena requiring the attendance of a witness at a trial or hearing conducted under <a href="#">Code Section 23-3-122</a> may be served at any place in this state.</p> <p>(c) For purposes of applying subsection (b) of <a href="#">Code Section 9-11-9</a>, 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 <a href="#">Code Section 23-3-121</a> 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.</p> <p>(d) If the state or local government elects to intervene and proceed with a civil action brought under subsection (b) of <a href="#">Code Section 23-3-122</a>, 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.</p> <p>(e) In any action brought under <a href="#">Code Section 23-3-122</a>, the plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.</p> <p>(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 <a href="#">Code Section 23-3-122</a>.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 23-3-123</a>, enacted by <a href="#">Ga. L. 2012, p. 127, § 1-2/HB 822</a>.</p> <p><b>O.C.G.A. § 23-3-124 - Venue</b></p> <p>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.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 23-3-124</a>, enacted by <a href="#">Ga. L. 2012, p. 127, § 1-2/HB 822</a>.</p> <p><b>O.C.G.A. § 49-4-168.5 - Statute of limitations</b></p> <p>All civil actions under this article shall be filed pursuant to <a href="#">Code Section 49-4-168.2</a> 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.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 49-4-168.5</a>, enacted by <a href="#">Ga. L. 2007, p. 355, § 3/HB 551</a>; <a href="#">Ga. L. 2012, p. 127, § 2-1/HB 822</a>.</p> <p><b>O.C.G.A. § 49-4-168.6 - Venue</b></p> <p>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.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 49-4-168.6</a>, enacted by <a href="#">Ga. L. 2007, p. 355, § 3/HB 551</a>; <a href="#">Ga. L. 2009, p. 8, § 49/SB 46</a>; <a href="#">Ga. L. 2012, p. 127, § 2-1/HB 822</a>.</p> <tr><td></td><td><b>Whistle-blower Protections</b></td></tr> <tr><td></td><td><b>O.C.G.A. § 49-4-168.4 - Protection of employees from discrimination; relief; statute of limitations</b></td></tr> <tr><td></td><td><p>(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,</p></td></tr> |  | <b>Whistle-blower Protections</b> |  | <b>O.C.G.A. § 49-4-168.4 - Protection of employees from discrimination; relief; statute of limitations</b> |  | <p>(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,</p> |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <b>O.C.G.A. § 49-4-168.4 - Protection of employees from discrimination; relief; statute of limitations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           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|                 | <p>(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,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     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| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>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.</p> <p>(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.</p> <p>(c) Notwithstanding <a href="#">Code Section 49-4-168.5</a>, a civil action under this Code section may not be brought more than three years after the date when the discrimination occurred.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 49-4-168.4</a>, enacted by <a href="#">Ga. L. 2007, p. 355, § 3/HB 551</a>; <a href="#">Ga. L. 2012, p. 127, § 2-1/HB 822</a>..</p> <p><b>O.C.G.A. § 23-3-122 - Investigations by Attorney General; civil actions authorized; intervention by government; limitation on participating in litigation; stay of discovery; alternative remedies; division of recovery; limitations</b></p> <p>(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.</p> <p>(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.</p> <p>(3) A civil action under this subsection shall not be brought more than three years after the date when the discrimination occurred.</p> <p><b>HISTORY:</b> Code 1981, <a href="#">§ 23-3-122</a>, enacted by <a href="#">Ga. L. 2012, p. 127, § 1-2/HB 822</a>; <a href="#">Ga. L. 2013, p. 141, § 23/HB 79</a>.</p> <p>TITLE 45. PUBLIC OFFICERS AND EMPLOYEES<br/>CHAPTER 1. GENERAL PROVISIONS</p> <p><b>O.C.G.A. § 45-1-4 - Complaints or information from public employees as to fraud, waste, and abuse in state programs and operations</b></p> <p>(a) As used in this Code section, the term:</p> <p>(1) "Government agency" means any agency of federal, state, or local government charged with the enforcement of laws, rules, or regulations.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>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.</p> <p>(6) "Supervisor" means any individual:</p> <p>(A) To whom a public employer has given authority to direct and control the work performance of the affected public employee;</p> <p>(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</p> <p>(C) Who has been designated by a public employer to receive complaints regarding a violation of or noncompliance with a law, rule, or regulation.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(2) In any action brought pursuant to this subsection, the court may order any or all of the following relief:</p> <p>(A) An injunction restraining continued violation of this Code section;</p> <p>(B) Reinstatement of the employee to the same position held before the retaliation or to an equivalent position;</p> <p>(C) Reinstatement of full fringe benefits and seniority rights;</p> <p>(D) Compensation for lost wages, benefits, and other remuneration; and</p> <p>(E) Any other compensatory damages allowable at law.</p> <p>(f) A court may award reasonable attorney's fees, court costs, and expenses to a prevailing public employee.</p> |

| State /Citation                                                                                                         | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                                                                                                                         | <b>HISTORY:</b> Code 1981, <a href="#">§ 45-1-4</a> , enacted by Ga. L. 1993, p. 563, § 1; <a href="#">Ga. L. 2005, p. 899, § 1/HB 665</a> ; <a href="#">Ga. L. 2007, p. 298, § 1/HB 16</a> ; <a href="#">Ga. L. 2009, p. 745, § 2/SB 97</a> ; <a href="#">Ga. L. 2012, p. 446, § 2-66/HB 642</a> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <a href="#">Hawaii</a> / HRS § 661-21 – 661-29<br>HRS § 46-171 - 46-179<br>HRS § 378-61 <i>et seq</i><br>HRS § 346-43.5 | <b>Criminal and Civil Penalties for False Claims and Statements</b><br><br>Hawaii Other Helpful Information About Medicaid Fraud & Reporting Fraud<br><a href="https://medquest.hawaii.gov/en/members-applicants/fraud-prevention.html">https://medquest.hawaii.gov/en/members-applicants/fraud-prevention.html</a><br><a href="http://ag.hawaii.gov/cjd/medicaid-fraud-control-unit/">http://ag.hawaii.gov/cjd/medicaid-fraud-control-unit/</a><br><br><b>HRS § 661-21 - Actions for false claims to the State; qui tam actions.</b><br><a href="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-.htm</a><br><br><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0021.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0021.htm</a><br><br>(a) Notwithstanding section 661-7 to the contrary, any person who:<br><br>(1) Knowingly presents, or causes to be presented, a false or-fraudulent claim for payment or approval;<br><br>(2) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;<br><br>(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;<br><br>(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;<br><br>(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;<br><br>(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;<br><br>(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<br><br>(8) Conspires to commit any of the conduct described in this subsection,<br><br>shall be liable to the State 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 State sustains due to the act of that person.<br><br>(b) If the court finds that a person who has violated subsection (a):<br><br>(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;<br><br>(2) Fully cooperated with any state investigation of the violation; and<br><br>(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 |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>person did not have actual knowledge of the existence of an investigation into the violation;</p> <p>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.</p> <p>(c) Liability under this section shall be joint and several for any act committed by two or more persons.</p> <p>(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.</p> <p>(e) For purposes of this section:</p> <p>"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.</p> <p>"Knowing" and "knowingly" means that a person, with respect to information:</p> <p>(1) Has actual knowledge of the information;</p> <p>(2) Acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(3) Acts in reckless disregard of the truth or falsity of the information;</p> <p>and no proof of specific intent to defraud is required.</p> <p>"Material" means having the tendency to influence or capability to influence the payment or receipt of money or property.</p> <p>"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.</p> <p><b>HISTORY:</b> <a href="#">L 2000, c 126</a>, § 1; am <a href="#">L 2001, c 55</a>, § 28; am <a href="#">L 2012, c 294</a>, § 6, effective July 9, 2012.</p> <p><b>HRS § 46-171. Actions for false claims to the counties; qui tam actions.</b><br/><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol002_Ch0046-0115/HRS0046/HRS_0046-0171.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol002_Ch0046-0115/HRS0046/HRS_0046-0171.htm</a></p> <p>(a) Any person who:</p> <p>(1) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;</p> <p>(2) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;</p> <p>(3) as 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;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(8) Conspires to commit any of the conduct described in this subsection,</p> <p>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.</p> <p>(b) If the court finds that a person who has violated subsection (a):</p> <p>(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;</p> <p>(2) Fully cooperated with any county investigation of the violation; and</p> <p>(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;</p> <p>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.</p> <p>(c) Liability under this section shall be joint and several for any act committed by two or more persons.</p> <p>(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.</p> <p>(e) For purposes of this section:</p> <p>"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.</p> <p>"Knowing" and "knowingly" means that a person, with respect to information:</p> <p>(1) Has actual knowledge of the information;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>(2) Acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(3) Acts in reckless disregard of the truth or falsity of the information;</p> <p>and no proof of specific intent to defraud is required.</p> <p>"Material" means having the tendency to influence or capability to influence the payment or receipt of money or property.</p> <p>"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.</p> <p><b>HISTORY:</b> <a href="#">L 2001, c 227</a>, § 1; am <a href="#">L 2012, c 294</a>, § 2, effective July 9, 2012.</p> <p>HRS § 346-43.5 - <b>Medical assistance fraud; penalties.</b></p> <p>(a) A person commits the offense of medical assistance fraud if:</p> <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(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, co-payments, 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.</p> <p>(d) The offense of medical assistance fraud is a class C felony.</p> <p>(e) The remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy.</p> <p><b>HISTORY:</b> L 1980, c 210, § 1; am <a href="#">L 2016, c 94</a>, § 1, effective June 21, 2016.</p> |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>HRS § 661-25 - Action by private persons.</b><br/><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0025.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0025.htm</a></p> <p>(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.</p> <p><b>HISTORY:</b> <a href="#">L 2000, c 126</a>, § 1; am <a href="#">L 2001, c 55</a>, § 28.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |



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|                 | <p>HRS § 661-26 - <b>Rights of parties to qui tam actions.</b><br/><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0026.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0026.htm</a></p> <p>(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:</p> <p>(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;</p> <p>(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;</p> <p>(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:</p> <p>(A) Limiting the number of witnesses the person may call;</p> <p>(B) Limiting the length of the testimony of the witnesses;</p> <p>(C) Limiting the person's cross-examination of witnesses; or</p> <p>(D) Otherwise limiting the participation by the person in the litigation.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> <a href="#">L 2000, c 126</a>, § 1.</p> <p>[§ 661-27.] <b>Awards to qui tam plaintiffs.</b><br/><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0027.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0027.htm</a></p> |

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|                 | <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(f) In no event may a person bring an action under section 661-25:</p> <p>(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</p> <p>(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.</p> <p><b>HISTORY:</b> <a href="#">L 2000, c 126</a>, § 1; am <a href="#">L 2012, c 294</a>, § 7, effective July 9, 2012.</p> <p>HRS § 661-31 - <b>Certain actions barred.</b></p> <p>(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.</p> <p>(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:</p> <p>(1) In a state criminal, civil, or administrative hearing in which the State or its agent is a party;</p> <p>(2) In a state legislative or other state report, hearing, audit, or investigation; or</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>(3) By the news media,<br/>unless the action is brought by the attorney general or the person bringing the action is an original source of the information.</p> <p>(c) For purposes of this section, "original source" means an individual who:</p> <p>(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</p> <p>(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.</p> <p><b>HISTORY:</b> L 2012, c 294, § 5, effective July 9, 2012.</p> <p><b>HRS § 46-175. Action by private persons.</b><br/><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0175.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0175.htm</a></p> <p>(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.</p> <p>(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:</p> <p>(1) Shall be filed in camera;</p> <p>(2) Shall remain under seal for at least sixty days; and</p> <p>(3) Shall not be served on the defendant until the court so orders.</p> <p>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.</p> <p>(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.</p> <p>(d) Before the expiration of the sixty-day period or any extension obtained, the county shall:</p> <p>(1) Proceed with the action, in which case the action shall be conducted by the county and the seal shall be lifted; or</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> <a href="#">L 2001, c 227</a>, § 1</p> <p><b>§ 46-177. Awards to qui tam plaintiffs.</b><br/><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0177.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0177.htm</a></p> <p>(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>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.</p> <p><b>(b)</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.</p> <p><b>(c)</b> 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.</p> <p><b>(d)</b> 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.</p> <p><b>(e)</b> 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.</p> <p><b>(f)</b> In no event may a person bring an action under section 46-175:</p> <p>    <b>(1)</b> 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</p> <p>    <b>(2)</b> 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.</p> <p><b>HISTORY:</b> <a href="#">L 2001, c 227</a>, § 1; am <a href="#">L 2012, c 294</a>, § 3, effective July 9, 2012.</p> <p><b>HRS § 46-181 - Certain actions barred.</b><br/><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0181.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0046/HRS_0046-0181.htm</a></p> <p>    <b>(a)</b> 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 already a party.</p> <p><b>(b)</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:</p> <p>    <b>(1)</b> In a criminal, civil, or administrative hearing in which a county or its agent is a party;</p> <p>    <b>(2)</b> In a county council or other county report, hearing, audit, or investigation; or</p> <p>    <b>(3)</b> By the news media,</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>unless the action is brought by the county attorney or the person bringing the action is an original source of the information.</p> <p>(c) For purposes of this section, "original source" means an individual who:</p> <p>(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</p> <p>(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.</p> <p><b>HISTORY:</b> <a href="#">L 2012, c 294</a>, § 1, effective July 9, 2012.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                 | <p><b>Whistle-blower Protections</b></p> <p>HRS § 661-30 - <b>Relief from retaliatory actions.</b><br/><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0030.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0661/HRS_0661-0030.htm</a></p> <p>(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).</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> <a href="#">L 2012, c 294</a>, § 5, effective July 9, 2012.</p> <p><b>HRS § 46-180 - Relief from retaliatory actions</b><br/><a href="https://www.capitol.hawaii.gov/hrscurrent/vol02_ch0046-0115/HRS0046/HRS_0046-0180.htm">https://www.capitol.hawaii.gov/hrscurrent/vol02_ch0046-0115/HRS0046/HRS_0046-0180.htm</a></p> <p>(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).</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> <a href="#">L 2012, c 294</a>, § 1, effective July 9, 2012.</p> <p>HRS § 378-61 et seq<br/><b>Whistleblower Protection Act</b><br/><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0378/HRS_0378-0061.htm">http://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0378/HRS_0378-0061.htm</a></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>As used in this part:</p> <p>"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.</p> <p>"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.</p> <p>"Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.</p> <p>"Public body" means:</p> <p class="list-item">(1) A state officer, employee, agency, department, division, bureau, board, commission, committee, council, authority, or other body in the executive branch of state government;</p> <p class="list-item">(2) An agency, board, commission, committee, council, member, or employee of the legislative branch of the state government;</p> <p class="list-item">(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;</p> <p class="list-item">(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;</p> <p class="list-item">(5) A law enforcement agency or any member or employee of a law enforcement agency; or</p> <p class="list-item">(6) The judiciary and any member or employee of the judiciary.</p> <p>"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.</p> <p>"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.</p> <p><b>HISTORY:</b> L 1987, c 267, pt of § 1; am <a href="#">L 2011, c 166</a>, § 5, effective June 27, 2011.</p> <p><b>HRS § 378-62. Discharge of, threats to, or discrimination against employee for reporting violations of law.</b><br/><a href="http://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0378/HRS_0378-0062.htm">http:// www.capitol.hawaii.gov/ hrscurrent/ Vol07_ Ch0346-0398/HRS0378/HRS_ 0378-0062.htm</a></p> <p>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:</p> <p class="list-item">(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:</p> <p class="list-item">(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</p> <p class="list-item">(B) A contract executed by the State, a political subdivision of the State, or the United States,</p> |

| State /Citation                                                                                                                                                                                                                                 | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                                                                                                                 | <p>unless the employee knows that the report is false; or</p> <p>(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.</p> <p><b>HISTORY:</b> L 1987, c 267, pt of § 1; am <a href="#">L 2002, c 56</a>, § 2.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p><i>Idaho</i><br/>IDAPA 16.05.07.000 et seq.</p> <p><b>Idaho Code § 56-209h</b></p> <p>Idaho Code § 56-227</p> <p>Idaho Code § 56-227A</p> <p>Idaho Code § 56-227B</p> <p>Idaho Code § 18-2401 - 2421</p> <p>Idaho Code § 6 - 2101 - 2109</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Idaho Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="http://healthandwelfare.idaho.gov/AboutUs/Fraud-ReportPublicAssistanceFraud/tabid/136/Default.aspx">http://healthandwelfare.idaho.gov/AboutUs/Fraud-ReportPublicAssistanceFraud/tabid/136/Default.aspx</a><br/><a href="https://www.ag.idaho.gov/office-resources/medicaid-fraud/">https://www.ag.idaho.gov/office-resources/medicaid-fraud/</a></p> <p>Idaho Code § 18-2401 – 2421<br/><a href="https://legislature.idaho.gov/statutesrules/idstat/Title18/T18CH24/">https://legislature.idaho.gov/statutesrules/idstat/Title18/T18CH24/</a></p> <p><b>Idaho Code § 56-209h - Administrative remedies</b></p> <p>(1) Definitions. For purposes of this section:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(e) "Knowingly," "known" or "with knowledge" means that a person, with respect to information or an action:</p> <p>(i) Has actual knowledge of the information or action; or</p> <p>(ii) Acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or</p> <p>(iii) Acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action.</p> <p>(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.</p> <p>(g) "Medicaid fraud control unit" means that medicaid fraud control unit as provided for in <a href="#">section 56-226, Idaho Code</a>.</p> <p>(h) "Ownership or control interest" means a person or entity that:</p> <p>(i) Has an ownership interest totaling twenty-five percent (25%) or more in an entity; or</p> <p>(ii) Is an officer or director of an entity that is organized as a corporation; or</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>(iii) Is a partner in an entity that is organized as a partnership; or</p> <p>(iv) Is a managing member in an entity that is organized as a limited liability company.</p> <p>(i) "Provider" means an individual, organization, agency or other entity providing items or services under a public assistance program.</p> <p>(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.</p> <p>(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 and XXI, 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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">section 28-22-104, Idaho Code</a>, from the date of final determination of the amount owed for items or services until the date of recovery.</p> <p>(6) Provider status. The department may terminate the provider agreement or otherwise deny provider status to any individual or entity who:</p> <p>(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</p> <p>(b) Submits a fraudulent claim; or</p> <p>(c) Knowingly makes a false statement or representation of material fact in any document required to be maintained or submitted to the department; or</p> <p>(d) Submits a claim for an item or service known to be medically unnecessary; or</p> <p>(e) Fails to provide, upon written request by the department, immediate access to documentation required to be maintained; or</p> <p>(f) Fails repeatedly or substantially to comply with the rules and regulations governing medical assistance payments or other public assistance program payments; or</p> <p>(g) Knowingly violates any material term or condition of its provider agreement; or</p> <p>(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>statute, rule, regulation or provider agreement; or</p> <p>(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</p> <p>(j) Fails to meet the qualifications specifically required by rule or by any applicable licensing board.</p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(12) Adoption of rules. The department shall promulgate such rules as are necessary to carry out the policies and purposes of this section.</p> <p><b>HISTORY:</b> <u>I.C., § 56-209b</u>, as added by <u>1998, ch. 311, § 2</u>, p. 1030; <u>am. 2007, ch. 341, § 2</u>, p. 1000; <u>am. 2008, ch. 187, § 1</u>, p. 588; <u>am. 2016, ch. 106, § 1</u>, p. 307.</p> <p>THE INVESTIGATION AND ENFORCEMENT OF FRAUD, ABUSE, AND MISCONDUCT<br/><a href="https://adminrules.idaho.gov/rules/current/16/160507.pdf">https:// adminrules.idaho.gov/ rules/ current/ 16/ 160507.pdf</a></p> |

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|                 | <p>IDAPA 16.05.07.000<br/>LEGAL AUTHORITY.<br/>The Idaho Department of Health and Welfare has the authority to establish and enforce rules to protect the integrity of the public assistance programs against fraud, abuse, and other misconduct under Sections 56-202(b), 56-203(a) and (b), 56-209, 56-209h, 56-227, 56-227A through D, <a href="#">56-1001</a>, and <a href="#">56-1003, Idaho Code</a>, and under federal regulations. Effective Date (3-30-07)</p> <p>IDAPA 16.05.07.235 - CIVIL MONETARY PENALTIES.<br/>Under <a href="#">Section 56-209h, Idaho Code</a>, the Department may assess civil monetary penalties against a provider, any officer, director, owner, and managing employee for conduct identified in Subsections 230.01 through 230.09 of these rules. The amount of penalties may 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. These penalties are intended to be remedial, at a minimum recovering costs of investigation and administrative review, and placing the costs associated with non-compliance on the offending provider. Effective date (3-29-17)</p> <hr/> <p><b>Idaho Code § 56-227 - Fraudulent acts -- Penalty</b><br/>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">section 56-226, Idaho Code</a>. The department shall establish a procedure to coordinate information with prosecuting attorneys to prosecute offenders who commit fraudulent acts pursuant to this chapter.</p> <p><b>HISTORY:</b> 1941, ch. 181, § 24-c, as added by 1943, ch. 119, § 2, p. 228; am. 1974, ch. 233, § 9, p. 1590; am. 1981, ch. 194, § 1, p. 343; am. 1988, ch. 246, § 1, p. 480; <a href="#">am. 2002, ch. 369, § 2</a>, p. 1038; <a href="#">am. 2007, ch. 341, § 5</a>, p. 1000; <a href="#">am. 2008, ch. 188, § 1</a>, p. 592; <a href="#">am. 2013, ch. 143, § 1</a>, p. 340.</p> <p><b>Idaho Code § 56-227A. Provider fraud – Criminal penalty</b><br/><br/>It shall be unlawful for any provider or person, knowingly, with intent to defraud, by means of a wilfully false statement or representation or by deliberate concealment of any material fact, or any other fraudulent scheme or device, to:</p> <p>(a) present for allowance or payment any false or fraudulent claim for furnishing services or supplies; or</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>(b) attempt to obtain or to obtain authorization for furnishing services or supplies; or</p> <p>(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.</p> <p>Any provider or person who violates the provisions of this section shall be guilty of a felony. Nothing in this section shall prohibit or preclude a provider or person from being prosecuted under any other provision of the criminal code.</p> <p><b>HISTORY:</b> <a href="#">I.C., § 56-227A</a>, as added by 1977, ch. 226, § 2, p. 673.</p> <p><b>Idaho Code § 56-227B. Provider fraud -- Damages</b><br/>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.</p> <p>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.</p> <p><b>HISTORY:</b> <a href="#">I.C., § 56-227B</a>, as added by 1977, ch. 226, § 3, p. 673; <a href="#">am. 2007, ch. 341, § 6</a>, p. 1000.</p> <p>PENAL CODE<br/>TITLE 18. CRIMES AND PUNISHMENTS<br/>CHAPTER 24. 'THEFT'<br/>Idaho Code § 18-2401 - 2421<br/><a href="https://legislature.idaho.gov/statutesrules/idstat/Title18/T18CH24/">https://legislature.idaho.gov/statutesrules/idstat/Title18/T18CH24/</a></p> |
|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                 | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                 | <p>This act is known as the "<b>Idaho Protection of Public Employees Act.</b>"<br/>Idaho Code § 6-2102 <i>et seq</i><br/><a href="https://legislature.idaho.gov/statutesrules/idstat/Title6/T6CH21/">https://legislature.idaho.gov/statutesrules/idstat/Title6/T6CH21/</a></p> <p>Idaho Code § 6-2101. Legislative intent<br/>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.</p> <p><b>HISTORY:</b> <a href="#">I.C., § 6-2101</a>, as added by <a href="#">1994, ch. 100, § 1</a>, p. 226.</p> <p><b>Idaho Code § 6-2103 - § 6-2103. Definitions</b></p> <p>As used in this chapter:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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|                 | <p>(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.</p> <p>(2) "Communicate" means a verbal or written report.</p> <p>(3) "Employee" means a person who performs a service for wages or other remuneration.</p> <p>(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;</p> <p>(b) "Employer" includes an agent of an employer.</p> <p>(5) "Public body" means any of the following:</p> <p>(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;</p> <p>(b) An agency, board, commission, council, institution member or employee of the legislative branch of state government;</p> <p>(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;</p> <p>(d) Any other body that is created by state or local authority, or any member or employee of that body;</p> <p>(e) A law enforcement agency or any member or employee of a law enforcement agency; and</p> <p>(f) The judiciary and any member or employee of the judiciary.</p> <p><b>HISTORY:</b> <a href="#">I.C., § 6-2103</a>, as added by <a href="#">1994, ch. 100, § 1</a>, p. 226.</p> <p>Idaho Code § 6-2104</p> <p><b><i>§ 6-2104. Reporting of governmental waste or violation of law -- Employer action</i></b></p> <hr/> <p>I.C. § 6-2104</p> <p><b>§ 6-2104. Reporting of governmental waste or violation of law--Employer action</b></p> <p>(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.</p> <p>(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.</p> <p>(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.</p> |

| State /Citation                                            | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                                                            | <p>(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.</p> <p>(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.</p> <p>(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.</p> <p><b>Credits</b></p> <p><u><i>S.L. 1994, ch. 100, § 1.</i></u> Amended by <u><i>S.L. 2017, ch. 272, § 1, eff. July 1, 2017</i></u>; <u><i>S.L. 2020, ch. 295, § 1, eff. July 1, 2020.</i></u></p> <hr/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><u><i>Illinois/</i></u><br/>740 ILCS 175/1, et seq.</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><i>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</i><br/><a href="https://hfs.illinois.gov/oig/reportfraud.html">https://hfs.illinois.gov/oig/reportfraud.html</a><br/><a href="https://www.dhs.state.il.us/page.aspx?item=97061">https://www.dhs.state.il.us/page.aspx?item=97061</a><br/><a href="https://hfs.illinois.gov/oig/sanctionslist.html">https://hfs.illinois.gov/oig/sanctionslist.html</a></p> <p><b>CIVIL LIABILITIES</b><br/><b>Illinois False Claims Act.</b><br/><a href="http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2058&amp;Chap.Act=740%26nbsp%3BILCS%26nbsp%3B175%2F&amp;ChapterID=57&amp;ChapterName=CIVIL+LIABILITIES&amp;ActName=Whistleblower+Reward+and+Protection+Act%2E">http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2058&amp;Chap.Act=740%26nbsp%3BILCS%26nbsp%3B175%2F&amp;ChapterID=57&amp;ChapterName=CIVIL+LIABILITIES&amp;ActName=Whistleblower+Reward+and+Protection+Act%2E</a></p> <p>740 ILCS 175/2 –<br/>[Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 127, para. 4102]</p> <p>Sec. 2. Definitions. As used in this Act:</p> <p>(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.</p> <p>(b) “Guard” means the Illinois National Guard.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(f) “Custodian” means the custodian, or any deputy custodian, designated by the Attorney General under subsection (i)(1) of Section 6.</p> <p>(g) “Product of discovery” includes:</p> <p>(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;</p> <p>(2) any digest, analysis, selection, compilation, or derivation of any item listed in paragraph (1); and</p> <p>(3) any index or other manner of access to any item listed in paragraph (1).</p> <p><b>HISTORY:</b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>Source: <a href="#">P.A. 87-662, § 2, eff. Jan. 1, 1992</a>. Amended by <a href="#">P.A. 89-260, § 5, eff. Jan. 1, 1996</a>; <a href="#">P.A. 91-760, § 75, eff. Jan. 1, 2001</a>; <a href="#">P.A. 95-128, § 10, eff. Jan. 1, 2008</a>; <a href="#">P.A. 96-1304, § 10, eff. July 27, 2010</a>; <a href="#">P.A. 102-538, § 1120, eff. Aug. 20, 2021</a>.; 2023 Ill. Legis. Serv. P.A. 103-145 (H.B. 2188)</p> <p><b>740 ILCS 175/3</b><br/><b>Sec. 3. False claims.</b><br/><b>(a)</b> Liability for certain acts.</p> <p style="padding-left: 40px;"><b>(1)</b> In general, any person who:</p> <p style="padding-left: 80px;"><b>(A)</b> knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;<br/><b>(B)</b> knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;<br/><b>(C)</b> conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);<br/><b>(D)</b> 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;<br/><b>(E)</b> 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;<br/><b>(F)</b> 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;<br/>or<br/><b>(G)</b> 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,</p> <p style="padding-left: 80px;">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.</p> <p style="padding-left: 40px;"><b>(2)</b> 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.</p> <p><b>(b)</b> Definitions. For purposes of this Section:</p> <p style="padding-left: 40px;"><b>(1)</b> The terms “knowing” and “knowingly”:</p> <p style="padding-left: 80px;"><b>(A)</b> mean that a person, with respect to information:</p> <p style="padding-left: 120px;"><b>(i)</b> has actual knowledge of the information;<br/><b>(ii)</b> acts in deliberate ignorance of the truth or falsity of the information; or<br/><b>(iii)</b> acts in reckless disregard of the truth or falsity of the information, and</p> <p style="padding-left: 80px;"><b>(B)</b> require no proof of specific intent to defraud.</p> <p style="padding-left: 40px;"><b>(2)</b> The term “claim”:</p> <p style="padding-left: 80px;"><b>(A)</b> 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</p> <p style="padding-left: 120px;"><b>(i)</b> is presented to an officer, employee, or agent of the State; or<br/><b>(ii)</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:</p> <p style="padding-left: 160px;"><b>(I)</b> provides or has provided any portion of the money or property requested or demanded; or<br/><b>(II)</b> will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and</p> <p style="padding-left: 80px;"><b>(B)</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.</p> <p style="padding-left: 40px;"><b>(3)</b> 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.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(4) The term “material” means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>(c) Exclusion. This Section does not apply to claims, records, or statements made under the Illinois Income Tax Act.</p> <p>History - <a href="#">P.A. 87-662</a>; <a href="#">94-1059</a>, § 5-87; <a href="#">95-128</a>, § 10; <a href="#">96-1304</a>, § 10; 2017 <a href="#">P.A. 100-452</a>, § 5, effective August 25, 2017.</p> <p>.</p> <p>Chapter 225 PROFESSIONS AND OCCUPATIONS<br/>HEALTH<br/>Health Care Worker Self-Referral Act</p> <p><i>225 ILCS 47/15 Definitions</i></p> <p><b><i>225 ILCS 47/15 - Definitions. [Effective January 1, 2018]</i></b></p> <hr/> <p>In this Act:</p> <p>(a) “Board” means the Health Facilities and Services Review Board.</p> <p>(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.</p> <p>(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:</p> <p class="list-item-l1">(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;</p> <p class="list-item-l1">(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</p> <p class="list-item-l1">(3) the overhead expenses and the income from the practice are distributed by methods previously determined by the group.</p> <p>(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; nurses and advanced practice registered nurses licensed under the Nurse Practice Act; occupational therapists licensed under the Illinois Occupational Therapy Practice Act; optometrists licensed under the Illinois Optometric Practice Act of 1987; pharmacists licensed under the Pharmacy Practice Act; physical therapists licensed under the Illinois Physical Therapy Act; physicians licensed under the Medical Practice Act of 1987; physician assistants licensed under the Physician Assistant Practice Act of 1987; podiatric physicians licensed under the Podiatric Medical Practice Act of 1987; clinical psychologists licensed under the Clinical Psychologist Licensing Act; clinical social workers licensed under the Clinical Social Work and Social Work Practice Act; speech-language pathologists and audiologists licensed under the Illinois Speech-Language Pathology and Audiology Practice Act; or hearing instrument dispensers licensed under the Hearing Instrument Consumer Protection Act, or any of their successor Acts.</p> <p>(e) “Health services” means health care procedures and services provided by or through a health care worker.</p> <p>(f) “Immediate family member” means a health care worker’s spouse, child, child’s spouse, or a parent.</p> <p>(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.</p> <p>(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).</p> <p>(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.</p> <p>(j) “Referral” means any referral of a patient for health services, including, without limitation:</p> <p class="list-item-l1">(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.</p> <p class="list-item-l1">(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.</p> <p>History - <a href="#">P.A. 87-1207</a>, § 15; <a href="#">89-72</a>, § 15; <a href="#">90-742</a>, § 15; <a href="#">95-639</a>, § 115; <a href="#">95-689</a>, § 55; <a href="#">95-876</a>, § 235; <a href="#">96-31</a>, § 55; <a href="#">98-214</a>, § 36; 2017 <a href="#">P.A. 100-513</a>, § 150, effective January 1, 2018.</p> <p>Chapter 20 EXECUTIVE BRANCH<br/>DEPARTMENT OF PROFESSIONAL REGULATION</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>Civil Administrative Code of Illinois<br/>Article 2105. Department of Professional Regulation</p> <p><i><b>20 ILCS 2105/2105-170 - Health care workers; automatic suspension of license</b></i></p> <p>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.</p> <hr/> <p>History - 2017 <a href="#">P.A. 100-262</a>, § 5, effective August 22, 2017<br/>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p>740 ILCS 175/4<br/>Civil actions for false claims.<br/><a href="https://ilga.gov/legislation/ilcs/documents/074001750K4.htm">https://ilga.gov/legislation/ilcs/documents/074001750K4.htm</a><br/>740 ILCS 175/4<br/>Formerly cited as IL ST CH 127 ¶ 4104<br/><b>175/4. Civil actions for false claims</b><br/><u><a href="#">Currentness</a></u><br/>§ 4. Civil actions for false claims.<br/>(a) <b>Responsibilities of the Attorney General.</b> 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.<br/>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.<br/>(b) <b>Actions by private persons.</b><br/>(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.<br/>(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.<br/>(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.<br/>(4) Before the expiration of the 60–day period or any extensions obtained under paragraph (3), the State shall:<br/>(A) proceed with the action, in which case the action shall be conducted by the State; or<br/>(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.<br/>(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.<br/>(c) <b>Rights of the parties to Qui Tam actions.</b><br/>(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).<br/>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>(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:</p> <ul style="list-style-type: none"><li>(i) limiting the number of witnesses the person may call;</li><li>(ii) limiting the length of the testimony of such witnesses;</li><li>(iii) limiting the person's cross-examination of witnesses; or</li><li>(iv) otherwise limiting the participation by the person in the litigation.</li></ul> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p><b>(d) Award to Qui Tam plaintiff.</b></p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p><b>(e) Certain actions barred.</b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(i) in a criminal, civil, or administrative hearing in which the State or its agent is a party;</p> <p>(ii) in a State legislative, State Auditor General, or other State report, hearing, audit, or investigation; or</p> <p>(iii) from the news media,</p> <p>unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.</p> <p>(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.</p> <p><b>(f) State not liable for certain expenses.</b> The State is not liable for expenses which a person incurs in bringing an action under this Section.</p> <p><b>Credits</b><br/><a href="#">P.A. 87-662, § 4, eff. Jan. 1, 1992</a>. Amended by <a href="#">P.A. 89-260, § 5, eff. Jan. 1, 1996</a>; <a href="#">P.A. 96-1304, § 10, eff. July 27, 2010</a>; <a href="#">P.A. 97-978, § 5, eff. Aug. 17, 2012</a>; <a href="#">P.A. 102-538, § 1120, eff. Aug. 20, 2021</a>.<br/>2023 Ill. Legis. Serv. P.A. 103-145 (H.B. 2188)</p> |
|                 | <p><b>Whistle-blower Protections</b></p> <p>740 ILCS 175/4</p> <p><b>Whistleblower Reward and Protection Act,</b><br/><a href="http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2058&amp;ChapAct=740%26nbsp%3BILCS%26nbsp%3B175%2F&amp;ChapterID=57&amp;ChapterName=CIVIL+LIABILITIES&amp;ActName=Whistleblower+Reward+and+Protection+Act%2E">http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2058&amp;ChapAct=740%26nbsp%3BILCS%26nbsp%3B175%2F&amp;ChapterID=57&amp;ChapterName=CIVIL+LIABILITIES&amp;ActName=Whistleblower+Reward+and+Protection+Act%2E</a></p> <p>§ 740 ILCS 175/4. Sec. 4. Civil actions for false claims.<br/><a href="https://ilga.gov/legislation/ilcs/documents/074001750K4.htm">https://ilga.gov/legislation/ilcs/documents/074001750K4.htm</a> (g) Relief from retaliatory actions.</p> <p><b>(g) Relief from retaliatory actions.</b></p> <p>(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.</p> <p>(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).</p> <p>(3) A civil action under this subsection may not be brought more than 3 years after the date when the retaliation occurred.</p> <p><b>Credits</b><br/><a href="#">P.A. 87-662, § 4, eff. Jan. 1, 1992</a>. Amended by <a href="#">P.A. 89-260, § 5, eff. Jan. 1, 1996</a>; <a href="#">P.A. 96-1304, § 10, eff. July 27, 2010</a>; <a href="#">P.A. 97-978, § 5, eff. Aug. 17, 2012</a>; <a href="#">P.A. 102-538, § 1120, eff. Aug. 20, 2021</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

| State /Citation                                                                                                                                                      | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                                      | 2023 Ill. Legis. Serv. P.A. 103-145 (H.B. 2188)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <i>Indiana/</i><br>Burns Ind. Code Ann. § 35-43-5-7.1<br><br><i>Burns Ind. Code Ann. § 5-11-5.7-1 et seq.</i><br><br>Burns Ind. Code Ann. § 5-11-5.5-1 <i>et seq</i> | <b>Criminal and Civil Penalties for False Claims and Statements</b><br><br><i>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</i><br><a href="https://www.in.gov/attorneygeneral/about-the-office/medicaid-fraud-and-patient-abuse/">https://www.in.gov/attorneygeneral/about-the-office/medicaid-fraud-and-patient-abuse/</a><br><a href="https://www.in.gov/jssa/2385.htm">https://www.in.gov/jssa/2385.htm</a><br><br><i>State Bulletin/Notice - <b>Section 6032 of the Deficit Reduction Act of 2005 – Education About False Claims Recovery</b></i><br><a href="http://www.indianamedicaid.com/ibcp/bulletins/bt200729.pdf">http://www.indianamedicaid.com/ibcp/bulletins/bt200729.pdf</a><br><br>-----<br>Title 5 State And Local Administration<br>Article 11 Public Funds -- Accounting, State Board of Accounts<br><b>Chapter 5.7 Medicaid False Claims and Whistleblower Protection</b><br><br><b><i>Burns Ind. Code Ann. § 5-11-5.7-1 - Applicability -- Definitions.</i></b><br><b>(a)</b> This chapter applies only to claims, requests, demands, statements, records, acts, and omissions made or submitted in relation to the Medicaid program described in IC 12-15. Sections 3 through 18 [ <i>IC 5-11-5.7-3 through 5-11-5.7-18</i> ] of this chapter apply to claims, requests, demands, statements, records, acts, and omissions made or submitted in relation to the Medicaid program described in IC 12-15 in violation of <i>IC 5-11-5.5-2</i> or <i>IC 5-11-5.7-2</i> .<br><br><b>(b)</b> The following definitions apply throughout this chapter:<br><br><b>(1)</b> "Claim" means a request or demand for money or property, whether under a contract or otherwise, and whether or not the state has title to the money or property, that:<br><br><b>(A)</b> is presented to an officer, employee, or agent of the state; or<br><br><b>(B)</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:<br><br><b>(i)</b> provides or has provided any part of the money or property that is requested or demanded; or<br><br><b>(ii)</b> will reimburse the contractor, grantee, or other recipient for any part of the money or property that is requested or demanded.<br><br><b>(2)</b> "Document", "electronically stored information", or "tangible thing" includes:<br><br><b>(A)</b> a writing, a drawing, a graph, a chart, a photograph, a sound recording, or an image;<br><br><b>(B)</b> other data or a data compilation stored in any medium from which information can be obtained either directly or after translation by the responding party into a reasonably usable form;<br><br><b>(C)</b> any tangible thing; and<br><br><b>(D)</b> a product of discovery.<br><br><b>(3)</b> "Investigation" means an inquiry conducted by an investigator to ascertain whether a person is or has been engaged in a violation of this chapter.<br><br><b>(4)</b> "Knowing", "knowingly", or "known" means that a person, regarding information:<br><br><b>(A)</b> has actual knowledge of the information;<br><br><b>(B)</b> acts in deliberate ignorance of the truth or falsity of the information; or |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(C) acts in reckless disregard of the truth or falsity of the information;<br/>and requires no proof of specific intent to defraud.</p> <p>(5) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>(6) "Obligation" means an established duty, whether or not the duty is fixed, arising from:</p> <p>(A) an express or implied contractual relationship;</p> <p>(B) a grantor-grantee relationship;</p> <p>(C) a licensor-licensee relationship;</p> <p>(D) a fee-based or similar relationship;</p> <p>(E) a statute;</p> <p>(F) a rule or regulation; or</p> <p>(G) the retention of an overpayment.</p> <p>(7) "Person" includes a natural person, a corporation, a firm, an association, an organization, a partnership, a limited liability company, a business, or a trust.</p> <p>(8) "Product of discovery" means the original or duplicate of:</p> <p>(A) a deposition;</p> <p>(B) an interrogatory;</p> <p>(C) a document;</p> <p>(D) a thing;</p> <p>(E) a result of the inspection of land or other property; or</p> <p>(F) an examination or admission;</p> <p>that is obtained by any method of discovery in a judicial or an administrative proceeding of an adversarial nature. The term includes a digest, an analysis, a selection, a compilation, a derivation, an index, or another method of accessing an item listed in this subdivision. The term also includes electronically stored information.</p> <p>(9) "State" means Indiana or any agency of state government. The term does not include a political subdivision.</p> <p><b>HISTORY:</b> P.L.197-2013, § 1, eff. July 1, 2013; P.L.109-2014, § 2, emergency eff. July 1, 2014.</p> <p><b>Chapter 5.7 Medicaid False Claims and Whistleblower Protection</b><br/><b><i>Burns Ind. Code Ann. § 5-11-5.7-2 - Inapplicability of section -- Violations -- Civil liability.</i></b></p> <p>(a) A person who:</p> <p>(1) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;</p> <p>(2) knowingly makes, uses, or causes to be made or used, a false record or statement that is material to a false or fraudulent claim;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>(3) 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 the money or property;</p> <p>(4) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and, with intent to defraud the state, authorizes issuance of a receipt without knowing that the information on the receipt is true;</p> <p>(5) knowingly buys or receives, as a pledge of an obligation or debt, public property from an employee who is not lawfully authorized to sell or pledge the property;</p> <p>(6) knowingly:</p> <p>(A) makes, uses, or causes to be made or used, a false record or statement concerning an obligation to pay or transmit money or property to the state; or</p> <p>(B) conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state;</p> <p>(7) conspires with another person to perform an act described in subdivisions (1) through (6); or</p> <p>(8) causes or induces another person to perform an act described in subdivisions (1) through (6);</p> <p>is, except as provided in subsection (b), liable to the state for a civil penalty of at least five thousand five hundred dollars (\$5,500) and not more than eleven thousand dollars (\$11,000), as adjusted by the federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note, Public Law 101-410), and for up to three (3) times the amount of damages sustained by the state. In addition, a person who violates this section is liable to the state for the costs of a civil action brought to recover a penalty or damages.</p> <p>(b) If the factfinder determines that the person who violated this section:</p> <p>(1) furnished state officials with all information known to the person about the violation not later than thirty (30) days after the date on which the person obtained the information;</p> <p>(2) fully cooperated with the investigation of the violation; and</p> <p>(3) did not have knowledge of the existence of an investigation, a criminal prosecution, a civil action, or an administrative action concerning the violation at the time the person provided information to state officials;</p> <p>the person is liable for a penalty of not less than two (2) times the amount of damages that the state sustained because of the violation. A person who violates this section is also liable to the state for the costs of a civil action brought to recover a penalty or damages.</p> <p><b>HISTORY:</b> P.L.197-2013, § 1, eff. July 1, 2013; P.L.109-2014, § 3, emergency eff. July 1, 2014.</p> <p><b>Indiana Code § 5-11-5.5-1 and Indiana Code § 5-11-5.5-2 –</b><br/>Title 5 State And Local Administration<br/>Article 11 Public Funds -- Accounting, State Board of Accounts<br/><b>Chapter 5.5 False Claims and Whistleblower Protection</b></p> <p><b><i>Burns Ind. Code Ann. § 5-11-5.5-1 - Definitions.</i></b></p> <p>The following definitions apply throughout this chapter:</p> <p>(1) "Claim" means a request or demand for money or property that is made to a contractor, grantee, or other recipient if the state:</p> <p>(A) provides any part of the money or property that is requested or demanded; or</p> <p>(B) will reimburse the contractor, grantee, or other recipient for any part of the money or property that is requested or demanded.</p> <p>(2) "Documentary material" means:</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>(A) the original or a copy of a book, record, report, memorandum, paper, communication, tabulation, chart, or other document;</p> <p>(B) a data compilation 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</p> <p>(C) a product of discovery.</p> <p>(3) "Investigation" means an inquiry conducted by an investigator to ascertain whether a person is or has been engaged in a violation of this chapter.</p> <p>(4) "Knowing", "knowingly", or "known" means that a person, regarding information:</p> <p>(A) has actual knowledge of the information;</p> <p>(B) acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(C) acts in reckless disregard of the truth or falsity of the information.</p> <p>(5) "Person" includes a natural person, a corporation, a firm, an association, an organization, a partnership, a limited liability company, a business, or a trust.</p> <p>(6) "Product of discovery" means the original or duplicate of:</p> <p>(A) a deposition;</p> <p>(B) an interrogatory;</p> <p>(C) a document;</p> <p>(D) a thing;</p> <p>(E) a result of the inspection of land or other property; or</p> <p>(F) an examination or admission;</p> <p>that is obtained by any method of discovery in a judicial or an administrative proceeding of an adversarial nature. The term includes a digest, an analysis, a selection, a compilation, a derivation, an index, or another method of accessing an item listed in this subdivision.</p> <p>(7) "State" means Indiana or any agency of state government. The term does not include a political subdivision.</p> <p><b>HISTORY:</b> P.L.222-2005, § 23; P.L.79-2007, § 1, emergency eff. April 26, 2007.</p> <p><b>Chapter 5.5 False Claims and Whistleblower Protection</b><br/><b><i>Burns Ind. Code Ann. § 5-11-5.5-2 - Applicability of section -- Liability under chapter.</i></b></p> <p>(a) This section does not apply to:</p> <p>(1) a claim, record, or statement concerning income tax (IC 6-3); or</p> <p>(2) a claim, request, demand, statement, record, act, or omission made or submitted after June 30, 2014, in relation to the Medicaid program described in IC 12-15.</p> <p>(b) A person who knowingly or intentionally:</p> <p>(1) presents a false claim to the state for payment or approval;</p> <p>(2) makes or uses a false record or statement to obtain payment or approval of a false claim from the state;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                 | <p>(3) with intent to defraud the state, delivers less money or property to the state than the amount recorded on the certificate or receipt the person receives from the state;</p> <p>(4) with intent to defraud the state, authorizes issuance of a receipt without knowing that the information on the receipt is true;</p> <p>(5) receives public property as a pledge of an obligation on a debt from an employee who is not lawfully authorized to sell or pledge the property;</p> <p>(6) makes or uses a false record or statement to avoid an obligation to pay or transmit property to the state;</p> <p>(7) conspires with another person to perform an act described in subdivisions (1) through (6); or</p> <p>(8) causes or induces another person to perform an act described in subdivisions (1) through (6);</p> <p>is, except as provided in subsection (c), liable to the state for a civil penalty of at least five thousand dollars (\$5,000) and for up to three (3) times the amount of damages sustained by the state. In addition, a person who violates this section is liable to the state for the costs of a civil action brought to recover a penalty or damages.</p> <p>(c) If the factfinder determines that the person who violated this section:</p> <p>(1) furnished state officials with all information known to the person about the violation not later than thirty (30) days after the date on which the person obtained the information;</p> <p>(2) fully cooperated with the investigation of the violation; and</p> <p>(3) did not have knowledge of the existence of an investigation, a criminal prosecution, a civil action, or an administrative action concerning the violation at the time the person provided information to state officials;</p> <p>the person is liable for a penalty of not less than two (2) times the amount of damages that the state sustained because of the violation. A person who violates this section is also liable to the state for the costs of a civil action brought to recover a penalty or damages.</p> <p><b>HISTORY:</b> P.L.222-2005, § 23; P.L.109-2014, § 1, emergency eff. July 1, 2014.</p> <p><b>34-24-3-1. Damages in civil action.</b></p> <p>If a person has an unpaid claim on a liability that is covered by IC 24-4.6-5 or suffers a pecuniary loss as a result of a violation of IC 35-43, <a href="#">IC 35-42-3-3</a>, <a href="#">IC 35-42-3-4</a>, or IC 35-45-9, the person may bring a civil action against the person who caused the loss for the following:</p> <p>(1) An amount not to exceed three (3) times:</p> <p>(A) the actual damages of the person suffering the loss, in the case of a liability that is not covered by IC 24-4.6-5; or</p> <p>(B) the total pump price of the motor fuel received, in the case of a liability that is covered by IC 24-4.6-5.</p> <p>(2) The costs of the action.</p> <p>(3) A reasonable attorney's fee.</p> <p>(4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:</p> <p>(A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or</p> <p>(B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter.</p> <p>(5) A reasonable amount to compensate the person suffering loss for time used to:</p> <p>(A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or</p> <p>(B) travel to and from activities described in clause (A).</p> <p>(6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:</p> <p>(A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or</p> <p>(B) travel to and from activities described in clause (A).</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>(7) All other reasonable costs of collection.</p> <p><b>HISTORY:</b> <a href="#">P.L.1-1998, § 19</a>; <a href="#">P.L.97-2011, § 3</a>, eff. July 1, 2011.</p> <p><b>Indiana Code § 12-15-22-1</b><br/><i>Medicaid: Provider Sanctions</i><br/>Burns Ind. Code Ann. § 12-15-22-1</p> <p><b>Types of sanctions.</b><br/>If after investigation the office determines that a provider has violated a Medicaid statute or rule adopted under a Medicaid statute, the office may impose at least one (1) of the following sanctions:</p> <p>(1) Denial of payment to the provider for Medicaid services provided during a specified time.<br/>(2) Rejection of a prospective provider's application for participation in the Medicaid program.<br/>(3) Termination of a provider agreement permitting a provider's participation in the Medicaid program.<br/>(4) Assessment of a civil penalty against the provider in an amount not to exceed three (3) times the amount paid to the provider in excess of the amount that was legally due.<br/>(5) Assessment of an interest charge, at a rate not to exceed the rate established by <a href="#">IC 24-4.6-1-101(2)</a> for judgments on money, on the amount paid to the provider in excess of the amount that was legally due. The interest charge accrues from the date of the overpayment to the provider.</p> <p><b>HISTORY:</b> <a href="#">P.L.2-1992, § 2</a>.</p> <p>Burns Ind. Code Ann. § 27-1-3-22<br/><b>27-1-3-22. Immunity from liability for reporting suspected fraudulent insurance acts.</b></p> <p>(a) As used in this section, "fraudulent insurance act" means:</p> <p>(1) The preparation or presentation of a written statement as part of, or in support of:</p> <p>(A) A fraudulent application for the issuance or rating of a policy of commercial insurance; or<br/>(B) A fraudulent claim under a policy of commercial or personal insurance; or</p> <p>(2) The concealment, for the purpose of misleading, of information concerning any fact material to an application or claim described in subdivision (1).</p> <p>(b) As used in this section, "fraudulent insurance act" includes the act or omission of a person who, knowingly and with intent to defraud, does any of the following:</p> <p>(1) Presents, causes to be presented, or prepares with knowledge or belief that it will be presented, to or by an insurer, a reinsurer, a purported insurer or reinsurer, a broker, or an agent of an insurer, reinsurer, purported insurer or reinsurer, or broker, an oral or written statement that the person knows to contain materially false information as part of, in support of, or concerning any fact that is material to:</p> <p>(A) An application for the issuance of an insurance policy;<br/>(B) The rating of an insurance policy;<br/>(C) A claim for payment or benefit under an insurance policy;<br/>(D) Premiums paid on an insurance policy;<br/>(E) Payments made in accordance with the terms of an insurance policy;<br/>(F) An application for a certificate of authority;<br/>(G) The financial condition of an insurer, a reinsurer, or a purported insurer or reinsurer; or<br/>(H) The acquisition of an insurer or a reinsurer;<br/>or conceals any information concerning a subject set forth in clauses (A) through (H).</p> <p>(2) Solicits or accepts new or renewal insurance risks by or for an insolvent insurer, reinsurer, or other entity regulated under this title.<br/>(3) Removes or attempts to remove:</p> <p>(A) The assets;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>(B) The record of assets, transactions, and affairs; or</p> <p>(C) A material part of the assets or the record of assets, transactions, and affairs; of an insurer, a reinsurer, or another entity regulated under this title, from the home office, other place of business, or place of safekeeping of the insurer, reinsurer, or other regulated entity, or conceals or attempts to conceal from the department assets or records referred to in clauses (A) through (C).</p> <p>(4) Diverts, attempts to divert, or conspires to divert funds of an insurer, a reinsurer, another entity regulated under the Indiana Code, or other persons, in connection with any of the following:</p> <p>(A) The transaction of insurance or reinsurance.</p> <p>(B) The conduct of business activities by an insurer, a reinsurer, or another entity regulated under this title.</p> <p>(C) The formation, acquisition, or dissolution of an insurer, a reinsurer, or another entity regulated under this title.</p> <p>(c) A person who acts without malice, fraudulent intent, or bad faith is not subject to civil liability for filing a report or furnishing, orally or in writing, other information concerning a suspected, anticipated, or completed fraudulent insurance act if the report or other information is provided to or received from any of the following:</p> <p>(1) The department or an agent, an employee, or a designee of the department.</p> <p>(2) Law enforcement officials or an agent or employee of a law enforcement official.</p> <p>(3) The National Association of Insurance Commissioners.</p> <p>(4) Any agency or bureau of federal or state government established to detect and prevent fraudulent insurance acts.</p> <p>(5) Any other organization established to detect and prevent fraudulent insurance acts.</p> <p>(6) An agent, an employee, or a designee of an entity referred to in subdivisions (3) through (5).</p> <p>(d) This section does not abrogate or modify in any way any common law or statutory privilege or immunity.</p> <p><b>HISTORY:</b> P.L.159-1986, § 2; <a href="#"><u>P.L.121-1992, § 1.</u></a></p> |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>Chapter 5.7 Medicaid False Claims and Whistleblower Protection</b></p> <p><b><i>Burns Ind. Code Ann. § 5-11-5.7-3 - Investigation.</i></b></p> <p>(a) The:</p> <p>(1) attorney general; and</p> <p>(2) inspector general;</p> <p>have concurrent jurisdiction to investigate a violation of section 2 [IC 5-11-5.7-2] of this chapter.</p> <p>(b) If the attorney general discovers a violation of section 2 of this chapter, the attorney general may bring a civil action under this chapter against a person who may be liable for the violation.</p> <p>(c) If the inspector general discovers a violation of section 2 of this chapter, the inspector general shall certify this finding to the attorney general. The attorney general may bring a civil action under this chapter against a person who may be liable for the violation.</p> <p>(d) If the attorney general or the inspector general is served by a person who has filed a civil action under section 4 [IC 5-11-5.7-4] of this chapter, the attorney general has the authority to intervene in that action as set forth in section 4 of this chapter.</p> <p>(e) If the attorney general:</p> <p>(1) is disqualified from investigating a possible violation of section 2 of this chapter;</p> <p>(2) is disqualified from bringing a civil action concerning a possible violation of section 2 of this chapter;</p> <p>(3) is disqualified from intervening in a civil action brought under section 4 of this chapter concerning a possible violation of section 2 of this chapter;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(4) elects not to bring a civil action concerning a possible violation of section 2 of this chapter; or</p> <p>(5) elects not to intervene under section 4 of this chapter;</p> <p>the attorney general shall certify the attorney general's disqualification or election to the inspector general.</p> <p>(f) If the attorney general has certified the attorney general's disqualification or election not to bring a civil action or intervene in a case under subsection (e), the inspector general has authority to:</p> <p>(1) bring a civil action concerning a possible violation of section 2 of this chapter; or</p> <p>(2) intervene in a case under section 4 of this chapter.</p> <p>(g) The attorney general shall certify to the inspector general the attorney general's disqualification or election under subsection (e) in a timely fashion, and in any event not later than:</p> <p>(1) sixty (60) days after being served, if the attorney general has been served by a person who has filed a civil action under section 4 of this chapter; or</p> <p>(2) one hundred eighty (180) days before the expiration of the statute of limitations, if the attorney general has not been served by a person who has filed a civil action under section 4 of this chapter.</p> <p>(h) The state is not required to file a bond under this chapter.</p> <p><b>HISTORY:</b> P.L.197-2013, § 1, eff. July 1, 2013; P.L.109-2014, § 4, emergency eff. July 1, 2014.</p> <p><b>Chapter 5.7 Medicaid False Claims and Whistleblower Protection</b><br/><b><i>Burns Ind. Code Ann. § 5-11-5.7-4 - Bringing civil action.</i></b></p> <p>(a) A person may bring a civil action for a violation of section 2 [IC 5-11-5.7-2] of this chapter on behalf of the person and on behalf of the state. The action:</p> <p>(1) must be brought in the name of the state; and</p> <p>(2) may be filed in any court with jurisdiction.</p> <p>(b) An action brought under this section may be dismissed voluntarily by the person bringing the action only if:</p> <p>(1) the person obtains the prior written consent of the attorney general or the inspector general, if applicable; and</p> <p>(2) the court issues an order:</p> <p>(A) granting the motion; and</p> <p>(B) explaining the court's reasons for granting the motion.</p> <p>(c) A person who brings an action under this section shall serve:</p> <p>(1) a copy of the complaint; and</p> <p>(2) a written disclosure that describes all relevant material evidence and information the person possesses;</p> <p>on both the attorney general and the inspector general. The person shall file the complaint under seal, and the complaint shall remain under seal for at least sixty (60) days. The complaint shall not be served on the defendant until the court orders the complaint served on the defendant following the intervention or the election not to intervene of the attorney general or the inspector general. The state may elect to intervene and proceed with the action not later than sixty (60) days after it receives both the complaint and the written disclosure.</p> <p>(d) For good cause shown, the attorney general or the inspector general may move the court to extend the time during which the complaint must remain under seal. A motion for extension may be supported by an affidavit or other evidence. The affidavit or other evidence may be submitted in camera.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>(e) Before the expiration of the time during which the complaint is sealed, the attorney general or the inspector general may:</p> <p>(1) intervene in the case and proceed with the action, in which case the attorney general or the inspector general shall conduct the action; or</p> <p>(2) elect not to proceed with the action, in which case the person who initially filed the complaint may proceed with the action.</p> <p>(f) The defendant in an action filed under this section is not required to answer the complaint until twenty-one (21) days after the complaint has been unsealed and served on the defendant.</p> <p>(g) After a person has filed a complaint under this section, no person other than the attorney general or the inspector general may:</p> <p>(1) intervene; or</p> <p>(2) bring another action based on the same facts.</p> <p>(h) If the person who initially filed the complaint:</p> <p>(1) planned and initiated the violation of section 2 of this chapter; or</p> <p>(2) has been convicted of a crime related to the person's violation of section 2 of this chapter;</p> <p>upon motion of the attorney general or the inspector general, the court shall dismiss the person as a plaintiff.</p> <p><b>HISTORY:</b> P.L.197-2013, § 1, eff. July 1, 2013; P.L.109-2014, § 5, emergency eff. July 1, 2014.</p> <p><b>Chapter 5.7 Medicaid False Claims and Whistleblower Protection</b><br/><b><i>Burns Ind. Code Ann. § 5-11-5.7-5 - 5-11-5.7-5. Intervention by attorney general or inspector general.</i></b></p> <p>(a) If the attorney general or the inspector general intervenes in an action under section 4 [<i>IC 5-11-5.7-4</i>] of this chapter, the attorney general or the inspector general is responsible for prosecuting the action and is not bound by an act of the person who initially filed the complaint. The attorney general or the inspector general may do the following:</p> <p>(1) File a complaint.</p> <p>(2) Amend the complaint of a person who has brought an action under section 4 of this chapter, to:</p> <p>(A) clarify or add detail to the claims in which the state is intervening; or</p> <p>(B) add additional claims to which the state contends the state is entitled to relief.</p> <p>(3) Move for a change of venue to Marion County if the attorney general or the inspector general files a motion for change of venue not later than ten (10) days after the attorney general or the inspector general intervenes.</p> <p>For statute of limitation purposes, a pleading filed by the attorney general or the inspector general relates 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 original filed complaint. Except as provided in this section, the person who initially filed the complaint may continue as a party to the action.</p> <p>(b) With the approval of the court, the attorney general or the inspector general may dismiss the action after:</p> <p>(1) notifying the person who initially filed the complaint; and</p> <p>(2) the court has conducted a hearing at which the person who initially filed the complaint was provided the opportunity to be heard on the motion.</p> <p>The court may consider a request by the attorney general or the inspector general to dismiss the action but is not bound by the request. Additionally, the court may permit the attorney general or inspector general to withdraw his or her appearance in the case and may permit the person who initially filed the complaint to continue to prosecute the action in the name of the state.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(c) The attorney general or the inspector general may settle the action if a court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable in light of the circumstances. Upon a showing of good cause, the court may:</p> <p>(1) conduct the settlement hearing in camera; or</p> <p>(2) lift all or part of the seal to facilitate the investigative process or settlement.</p> <p>The court may consider an objection to the settlement brought by the person who initially filed the complaint, but is not bound by this objection.</p> <p>(d) Upon a showing by the attorney general, the inspector general, or the defendant that unrestricted participation by the person who initially filed the complaint:</p> <p>(1) will interfere with or unduly delay the prosecution of the case by the attorney general or the inspector general;</p> <p>(2) will involve the presentation of repetitious or irrelevant evidence, or evidence introduced for purposes of harassment; or</p> <p>(3) will cause the defendant to suffer undue burden or unnecessary expense;</p> <p>the court may impose reasonable limitations on the person's participation, including a limit on the number of witnesses that the person may call, a limit to the length of testimony that the person's witness may present, a limit to the person's cross-examination of a witness, or otherwise limit the participation by the person in the litigation.</p> <p>(e) If the attorney general or the inspector general elects not to intervene in the action, the person who initially filed the complaint has the right to prosecute the action. Upon request, the attorney general or the inspector general shall be served with copies of all documents filed in the action and may obtain a copy of depositions and other transcripts at the state's expense.</p> <p>(f) If the attorney general and the inspector general have elected not to intervene in an action in accordance with section 4 of this chapter, upon a showing of good cause, a court may permit either the attorney general or the inspector general to intervene at a later time. The attorney general may move to intervene at any time. If the attorney general has not moved to intervene, the inspector general may move to intervene by providing written notice to the attorney general of the inspector general's intent to intervene. If the attorney general does not move to intervene earlier than fifteen (15) days after receipt of the notice of intent to intervene, the inspector general may move to intervene. If the attorney general or the inspector general intervenes under this subsection, the attorney general or the inspector general is responsible for prosecuting the action as if the attorney general or the inspector general had intervened in accordance with section 4 of this chapter.</p> <p>(g) If the attorney general or inspector general shows that a specific discovery action by the person who initially filed the complaint will interfere with the investigation or prosecution of a civil or criminal matter arising out of the same facts, the court may, following a hearing in camera, stay discovery for not more than sixty (60) days. After the court has granted a sixty (60) day stay, the court may extend the stay, following a hearing in camera, if it determines that the state has pursued the civil or criminal investigation with reasonable diligence and that a specific discovery action by the person who initially filed the complaint will interfere with the state's investigation or prosecution of the civil or criminal matter.</p> <p>(h) A court may dismiss an action brought under this chapter to permit the attorney general or the inspector general to pursue its claim through an alternative proceeding, including an administrative proceeding or a proceeding brought in another jurisdiction. The person who initially filed the complaint has the same rights in the alternative proceedings as the person would have had in the original proceedings. A finding of fact or conclusion of law made in the alternative proceeding is binding on all parties to an action under this section once the determination made in the alternative proceeding is final under the rules, regulations, statutes, or law governing the alternative proceeding, or if the time for seeking an appeal or review of the determination made in the alternative proceeding has elapsed.</p> <p><b>HISTORY:</b> P.L.197-2013, § 1, eff. July 1, 2013; P.L.109-2014, § 6, emergency eff. July 1, 2014.</p> <p><b>Chapter 5.7 Medicaid False Claims and Whistleblower Protection</b><br/><b><i>Burns Ind. Code Ann. § 5-11-5.7-6 - Amounts awarded to person filing complaint.</i></b></p> <p>(a) The person who initially filed the complaint is entitled to the following amounts if the state prevails in the action:</p> <p>(1) Except as provided in subdivision (2), if the attorney general or the inspector general intervened in the action, the person is entitled to receive at least fifteen percent (15%) and not more than twenty-five percent (25%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.</p> <p>(2) If the attorney general or the inspector general intervened in the action and the court finds that the evidence used to prosecute the action consisted primarily of specific information, other than information provided by the person bringing the action, contained in:</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>(A) a transcript of a criminal, a civil, or an administrative hearing;</p> <p>(B) a legislative, an administrative, or another public state report, hearing, audit, or investigation; or</p> <p>(C) a news media report;</p> <p>the person is entitled to receive not more than ten percent (10%) of the proceeds of the action or settlement, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.</p> <p>(3) If the attorney general or the inspector general did not intervene in the action, the person is entitled to receive at least twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.</p> <p>(4) If the person who initially filed the complaint:</p> <p>(A) planned and initiated the violation of section 2 [IC 5-11-5.7-2] of this chapter; or</p> <p>(B) has been convicted of a crime related to the person's violation of section 2 of this chapter;</p> <p>the person is not entitled to an amount under this section.</p> <p>After conducting a hearing at which the attorney general or the inspector general and the person who initially filed the complaint may be heard, the court shall determine the specific amount to be awarded under this section to the person who initially filed the complaint. The award of reasonable attorney's fees plus an amount to cover the expenses and costs of bringing the action is an additional cost assessed against the defendant and may not be paid from the proceeds of the civil action.</p> <p>(b) If:</p> <p>(1) the attorney general or the inspector general did not intervene in the action; and</p> <p>(2) the defendant prevails;</p> <p>the court may award the defendant reasonable attorney's fees plus an amount to cover the expenses and costs of defending the action, if the court finds that the action is frivolous, vexatious, or brought primarily for purposes of harassment.</p> <p>(c) The state is not liable for the expenses, costs, or attorney's fees of a party to an action brought under this chapter.</p> <p><b>HISTORY:</b> P.L.197-2013, § 1, eff. July 1, 2013; P.L.109-2014, § 7, emergency eff. July 1, 2014.</p> <p><b>Chapter 5.7 Medicaid False Claims and Whistleblower Protection</b><br/><b>Burns Ind. Code Ann. § 5-11-5.7-7 - Inapplicability to actions brought by certain persons.</b></p> <p>(a) This section does not apply to an action brought by:</p> <p>(1) the attorney general;</p> <p>(2) the inspector general;</p> <p>(3) a prosecuting attorney; or</p> <p>(4) a state employee in the employee's official capacity.</p> <p>(b) A court does not have jurisdiction over an action brought under section 4 [IC 5-11-5.7-4] of this chapter if the action is brought by an incarcerated offender, including an offender incarcerated in another jurisdiction.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(c) A court does not have jurisdiction over an action brought under section 4 of this chapter against the state, a state officer, a judge (as defined in <i>IC 33-23-11-7</i>), a justice, a member of the general assembly, a state employee, or an employee of a political subdivision, if the action is based on information known to the state at the time the action was brought.</p> <p>(d) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon an act that is the subject of a civil suit, a criminal prosecution, or an administrative proceeding in which the state is a party.</p> <p>(e) A court does not have jurisdiction over an action or claim brought under section 4 of this chapter if the action or claim is based upon information contained in:</p> <ul style="list-style-type: none"><li>(1) a transcript of a criminal, a civil, or an administrative hearing in which the state or the state's agent is a party;</li><li>(2) a legislative, an administrative, or another public state report, hearing, audit, or investigation; or</li><li>(3) a news media report;</li></ul> <p>unless the person bringing the action either, before a public disclosure under this section voluntarily discloses to the state the information on which the allegations or transactions in a claim are based, or has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and the person bringing the action has voluntarily provided this information to the state before an action is filed under section 4 of this chapter.</p> <p>(f) In determining whether a prior public disclosure bars a court from exercising jurisdiction over an action brought under section 4 of this chapter, the court shall consider, but is not bound by, any objection brought by the attorney general or the inspector general.</p> <p><b>HISTORY:</b> P.L.197-2013, § 1, eff. July 1, 2013; P.L.109-2014, § 8, emergency eff. July 1, 2014.</p> <p><b>Chapter 5.5 False Claims and Whistleblower Protection</b><br/><b><i>Burns Ind. Code Ann. § 5-11-5.5-4 - Civil actions on behalf of person or state -- Procedure -- Dismissal.</i></b></p> <p>(a) A person may bring a civil action for a violation of section 2 [<i>IC 5-11-5.5-2</i>] of this chapter on behalf of the person and on behalf of the state. The action:</p> <ul style="list-style-type: none"><li>(1) must be brought in the name of the state; and</li><li>(2) may be filed in a circuit or superior court in:<ul style="list-style-type: none"><li>(A) the county in which the person resides;</li><li>(B) the county in which a defendant resides; or</li><li>(C) Marion County.</li></ul></li><li>(b) Except as provided in section 5 [<i>IC 5-11-5.5-5</i>] of this chapter, an action brought under this section may be dismissed only if:<ul style="list-style-type: none"><li>(1) the attorney general or the inspector general, if applicable, files a written motion to dismiss explaining why dismissal is appropriate; and</li><li>(2) the court issues an order:<ul style="list-style-type: none"><li>(A) granting the motion; and</li><li>(B) explaining the court's reasons for granting the motion.</li></ul></li></ul></li><li>(c) A person who brings an action under this section shall serve:<ul style="list-style-type: none"><li>(1) a copy of the complaint; and</li><li>(2) a written disclosure that describes all relevant material evidence and information the person possesses;</li></ul></li></ul> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>on both the attorney general and the inspector general. The person shall file the complaint under seal, and the complaint shall remain under seal for at least one hundred twenty (120) days. The complaint shall not be served on the defendant until the court orders the complaint served on the defendant following the intervention or the election not to intervene of the attorney general or the inspector general. The state may elect to intervene and proceed with the action not later than one hundred twenty (120) days after it receives both the complaint and the written disclosure.</p> <p>(d) For good cause shown, the attorney general or the inspector general may move the court to extend the time during which the complaint must remain under seal. A motion for extension may be supported by an affidavit or other evidence. The affidavit or other evidence may be submitted in camera.</p> <p>(e) Before the expiration of the time during which the complaint is sealed, the attorney general or the inspector general may:</p> <p>(1) intervene in the case and proceed with the action, in which case the attorney general or the inspector general shall conduct the action; or</p> <p>(2) elect not to proceed with the action, in which case the person who initially filed the complaint may proceed with the action.</p> <p>(f) The defendant in an action filed under this section is not required to answer the complaint until twenty-one (21) days after the complaint has been unsealed and served on the defendant.</p> <p>(g) After a person has filed a complaint under this section, no person other than the attorney general or the inspector general may:</p> <p>(1) intervene; or</p> <p>(2) bring another action based on the same facts.</p> <p>(h) If the person who initially filed the complaint:</p> <p>(1) planned and initiated the violation of section 2 of this chapter; or</p> <p>(2) has been convicted of a crime related to the person's violation of section 2 of this chapter;</p> <p>upon motion of the attorney general or the inspector general, the court shall dismiss the person as a plaintiff.</p> <p><b>HISTORY:</b> P.L.222-2005, § 23.</p> <p><b>Chapter 5.5 False Claims and Whistleblower Protection</b><br/><b><i>Burns Ind. Code Ann. § 5-11-5.5-5 - Intervention by attorney general or inspector general -- Prosecution by original complainant -- Pursuance of claim through alternative proceedings.</i></b></p> <p>(a) If the attorney general or the inspector general intervenes in an action under section 4 [<i>IC 5-11-5.5-4</i>] of this chapter, the attorney general or the inspector general is responsible for prosecuting the action and is not bound by an act of the person who initially filed the complaint. The attorney general or the inspector general may move for a change of venue to Marion County if the attorney general or the inspector general files a motion for change of venue not later than ten (10) days after the attorney general or the inspector general intervenes. Except as provided in this section, the person who initially filed the complaint may continue as a party to the action.</p> <p>(b) The attorney general or the inspector general may dismiss the action after:</p> <p>(1) notifying the person who initially filed the complaint; and</p> <p>(2) the court has conducted a hearing at which the person who initially filed the complaint was provided the opportunity to be heard on the motion.</p> <p>(c) The attorney general or the inspector general may settle the action if a court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable in light of the circumstances. Upon a showing of good cause, the court may:</p> <p>(1) conduct the settlement hearing in camera; or</p> <p>(2) lift all or part of the seal to facilitate the investigative process or settlement.</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>The court may consider an objection to the settlement brought by the person who initially filed the complaint, but is not bound by this objection.</p> <p><b>(d)</b> Upon a showing by the attorney general, the inspector general, or the defendant that unrestricted participation by the person who initially filed the complaint:</p> <p><b>(1)</b> will interfere with the prosecution of the case by the attorney general or the inspector general; or</p> <p><b>(2)</b> will involve the presentation of repetitious or irrelevant evidence, or evidence introduced for purposes of harassment;</p> <p>the court may impose reasonable limitations on the person's participation, including a limit on the number of witnesses that the person may call, a limit to the amount and type of evidence that the person may introduce, a limit to the length of testimony that the person's witness may present, and a limit to the person's cross-examination of a witness.</p> <p><b>(e)</b> If the attorney general or the inspector general elects not to intervene in the action, the person who initially filed the complaint has the right to prosecute the action. Upon request, the attorney general or the inspector general shall be served with copies of all documents filed in the action and may obtain a copy of depositions and other transcripts at the state's expense.</p> <p><b>(f)</b> If the attorney general and the inspector general have elected not to intervene in an action in accordance with section 4 of this chapter, upon a showing of good cause, a court may permit either the attorney general or the inspector general to intervene at a later time. The attorney general may move to intervene at any time. If the attorney general has not moved to intervene, the inspector general may move to intervene by providing written notice to the attorney general of the inspector general's intent to intervene. If the attorney general does not move to intervene earlier than fifteen (15) days after receipt of the notice of intent to intervene, the inspector general may move to intervene. If the attorney general or the inspector general intervenes under this subsection, the attorney general or the inspector general is responsible for prosecuting the action as if the attorney general or the inspector general had intervened in accordance with section 4 of this chapter.</p> <p><b>(g)</b> If the attorney general or inspector general shows that a specific discovery action by the person who initially filed the complaint will interfere with the investigation or prosecution of a civil or criminal matter arising out of the same facts, the court may, following a hearing in camera, stay discovery for not more than sixty (60) days. After the court has granted a sixty (60) day stay, the court may extend the stay, following a hearing in camera, if it determines that the state has pursued the civil or criminal investigation with reasonable diligence and that a specific discovery action by the person who initially filed the complaint will interfere with the state's investigation or prosecution of the civil or criminal matter.</p> <p><b>(h)</b> A court may dismiss an action brought under this chapter to permit the attorney general or the inspector general to pursue its claim through an alternative proceeding, including an administrative proceeding or a proceeding brought in another jurisdiction. The person who initially filed the complaint has the same rights in the alternative proceedings as the person would have had in the original proceedings. A finding of fact or conclusion of law made in the alternative proceeding is binding on all parties to an action under this section once the determination made in the alternative proceeding is final under the rules, regulations, statutes, or law governing the alternative proceeding, or if the time for seeking an appeal or review of the determination made in the alternative proceeding has elapsed.</p> <p><b>HISTORY:</b> P.L.222-2005, § 23.</p> <p><b>Chapter 5.5 False Claims and Whistleblower Protection</b><br/><b><i>Burns Ind. Code Ann. § 5-11-5.5-6 - Awards to initial complainant.</i></b></p> <p><b>(a)</b> The person who initially filed the complaint is entitled to the following amounts if the state prevails in the action:</p> <p><b>(1)</b> Except as provided in subdivision (2), if the attorney general or the inspector general intervened in the action, the person is entitled to receive at least fifteen percent (15%) and not more than twenty-five percent (25%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.</p> <p><b>(2)</b> If the attorney general or the inspector general intervened in the action and the court finds that the evidence used to prosecute the action consisted primarily of specific information contained in:</p> <p><b>(A)</b> a transcript of a criminal, a civil, or an administrative hearing;</p> <p><b>(B)</b> a legislative, an administrative, or another public report, hearing, audit, or investigation; or</p> <p><b>(C)</b> a news media report;</p> <p>the person is entitled to receive not more than ten percent (10%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>(3) If the attorney general or the inspector general did not intervene in the action, the person is entitled to receive at least twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.</p> <p>(4) If the person who initially filed the complaint:</p> <p>(A) planned and initiated the violation of section 2 [IC 5-11-5.5-2] of this chapter; or</p> <p>(B) has been convicted of a crime related to the person's violation of section 2 of this chapter;</p> <p>the person is not entitled to an amount under this section.</p> <p>After conducting a hearing at which the attorney general or the inspector general and the person who initially filed the complaint may be heard, the court shall determine the specific amount to be awarded under this section to the person who initially filed the complaint. The award of reasonable attorney's fees plus an amount to cover the expenses and costs of bringing the action is an additional cost assessed against the defendant and may not be paid from the proceeds of the civil action.</p> <p>(b) If:</p> <p>(1) the attorney general or the inspector general did not intervene in the action; and</p> <p>(2) the defendant prevails;</p> <p>the court may award the defendant reasonable attorney's fees plus an amount to cover the expenses and costs of defending the action, if the court finds that the action is frivolous.</p> <p>(c) The state is not liable for the expenses, costs, or attorney's fees of a party to an action brought under this chapter.</p> <p><b>HISTORY:</b> P.L.222-2005, § 23.</p> |
|                 | <p><b>Whistle-blower Protections</b></p> <p><b>Chapter 5.7 Medicaid False Claims and Whistleblower Protection</b></p> <p><b><i>Burns Ind. Code Ann. § 5-11-5.7-8 - Lawful acts done to employee, contractor, agent, or associated others -- Relief.</i></b></p> <p>(a) An employee, contractor, or agent who has been discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others to:</p> <p>(1) object to or otherwise stop an act or omission described in section 2 [IC 5-11-5.7-2] of this chapter;</p> <p>(2) initiate, testify, assist, or participate in an investigation, an action, or a hearing; or</p> <p>(3) perform any other lawful act in furtherance of other efforts to stop one (1) or more violations under this chapter;</p> <p>is entitled to all relief necessary to make the employee, contractor, or agent whole.</p> <p>(b) Relief under this section must include:</p> <p>(1) reinstatement with the same seniority status the employee, contractor, or agent would have had but for the act described in subsection (a);</p> <p>(2) two (2) times the amount of back pay;</p> <p>(3) interest on the back pay; and</p> <p>(4) compensation for any special damages sustained as a result of the act described in subsection (a), including costs and expenses of litigation and reasonable attorney's fees.</p> <p>(c) An employee, contractor, or agent may bring an action for the relief provided in this section in any court with jurisdiction.</p>                                                                                                      |

| State /Citation                                                                            | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                                                                                            | <p>(d) A civil action under this section may not be brought more than three (3) years after the date the retaliation occurred.</p> <p><b>HISTORY:</b> P.L.197-2013, § 1, eff. July 1, 2013; P.L.109-2014, § 9, emergency eff. July 1, 2014.</p> <p><b>Chapter 5.5 False Claims and Whistleblower Protection</b><br/><b><i>Burns Ind. Code Ann. § 5-11-5.5-7 - Actions based on information from state employee or record.</i></b></p> <p>(a) This section does not apply to an action brought by:</p> <ul style="list-style-type: none"><li>(1) the attorney general;</li><li>(2) the inspector general;</li><li>(3) a prosecuting attorney; or</li><li>(4) a state employee in the employee's official capacity.</li></ul> <p>(b) A court does not have jurisdiction over an action brought under section 4 [IC 5-11-5.5-4] of this chapter that is based on information discovered by a present or former state employee in the course of the employee's employment, unless:</p> <ul style="list-style-type: none"><li>(1) the employee, acting in good faith, has exhausted existing internal procedures for reporting and recovering the amount owed the state; and</li><li>(2) the state has failed to act on the information reported by the employee within a reasonable amount of time.</li></ul> <p>(c) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is brought by an incarcerated offender, including an offender incarcerated in another jurisdiction.</p> <p>(d) A court does not have jurisdiction over an action brought under section 4 of this chapter against the state, a state officer, a judge (as defined in IC 33-23-11-7), a justice, a member of the general assembly, a state employee, or an employee of a political subdivision, if the action is based on information known to the state at the time the action was brought.</p> <p>(e) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon an act that is the subject of a civil suit, a criminal prosecution, or an administrative proceeding in which the state is a party.</p> <p>(f) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon information contained in:</p> <ul style="list-style-type: none"><li>(1) a transcript of a criminal, a civil, or an administrative hearing;</li><li>(2) a legislative, an administrative, or another public report, hearing, audit, or investigation; or</li><li>(3) a news media report;</li></ul> <p>unless the person bringing the action has direct and independent knowledge of the information that is the basis of the action, and the person bringing the action has voluntarily provided this information to the state.</p> <p><b>HISTORY:</b> P.L.222-2005, § 23; P.L.1-2006, § 98.</p> |
| <u>Iowa</u><br>Iowa Code § 685.1 et seq.<br>Iowa Code Section 249A.7<br>Iowa Code § 70A.28 | <b>Criminal and Civil Penalties for False Claims and Statements</b><br><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b><br><a href="https://dia.iowa.gov/report-fraud">https://dia.iowa.gov/report-fraud</a><br><a href="https://dia.iowa.gov/abuse-fraud/medicaid-public-assistance">https://dia.iowa.gov/abuse-fraud/medicaid-public-assistance</a><br><a href="https://dhs.iowa.gov/ime/about/aboutime/program-integrity">https://dhs.iowa.gov/ime/about/aboutime/program-integrity</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |


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| Iowa Code § 507E.1 | <p><b>Employee Policies Regarding Prevention and Detection of Medicaid Fraud and Abuse</b><br/>2012 Informational Letter No. 1183 @ <a href="https://dhs.iowa.gov/sites/default/files/InfoLtr1183.pdf?020520190102">https://dhs.iowa.gov/sites/default/files/InfoLtr1183.pdf?020520190102</a><br/>2013 Informational Letter No. 1286 @ <a href="https://secureapp.dhs.state.ia.us/IMPA/Information/ViewDocument.aspx?viewdocument=93814adc-4db3-4aac-8a29-f39a1dab9a57">https://secureapp.dhs.state.ia.us/IMPA/Information/ViewDocument.aspx?viewdocument=93814adc-4db3-4aac-8a29-f39a1dab9a57</a><br/>2017 Informational Letter No. 1867 @ <a href="https://secureapp.dhs.state.ia.us/IMPA/Information/ViewDocument.aspx?viewdocument=376b58e2-6cb4-47db-9cbc-121b1e9e3195">https://secureapp.dhs.state.ia.us/IMPA/Information/ViewDocument.aspx?viewdocument=376b58e2-6cb4-47db-9cbc-121b1e9e3195</a><br/>2022 Informational Letter No. 2394 @ <a href="https://secureapp.dhs.state.ia.us/IMPA/Information/ViewDocument.aspx?viewdocument=a4c3b52f-50f0-46e0-8f20-580c832b847c">https://secureapp.dhs.state.ia.us/IMPA/Information/ViewDocument.aspx?viewdocument=a4c3b52f-50f0-46e0-8f20-580c832b847c</a></p> <p>TITLE XV. JUDICIAL BRANCH AND JUDICIAL PROCEDURES<br/>SUBTITLE 5. SPECIAL ACTIONS<br/>CHAPTER 685. FALSE CLAIMS</p> <p><b>Iowa Code § 685.1 - Definitions.</b></p> <p>1. "Claim" means any request or demand, whether pursuant to a contract or otherwise, for money or property and whether the state has title to the money or property, which is presented to an officer, employee, agent, or other representative of the state or to a contractor, grantee, or other person 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 any portion of the money or property which is requested or demanded, or if the state will reimburse directly or indirectly such contractor, grantee, or other person for any portion of the money or property which is requested or demanded. "Claim" does not include any 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.</p> <p>2. "Custodian" means the custodian, or any deputy custodian, designated by the attorney general under section 685.6.</p> <p>3. "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.</p> <p>4. "False claims law" means this chapter.</p> <p>5. "False claims law investigation" means any inquiry conducted by a 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.</p> <p>6. "False claims law investigator" means any attorney or investigator employed by the department of justice who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the state acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation.</p> <p>7. a. "Knowing" or "knowingly" means that a person with respect to information, does any of the following:</p> <p>(1) Has actual knowledge of the information.</p> <p>(2) Acts in deliberate ignorance of the truth or falsity of the information.</p> <p>(3) Acts in reckless disregard of the truth or falsity of the information.</p> <p>b. "Knowing" or "knowingly" does not require proof of specific intent to defraud.</p> <p>8. "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>9. "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.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>10. "Official use" means any use that is consistent with the law, and the regulations and policies of the department of justice, including use, in connection with internal department of justice memoranda and reports; communications between the department of justice and a federal, state, or local government agency or a contractor of a federal, state, or local government agency, undertaken in furtherance of a department of justice investigation or prosecution of a case; interviews of any qui tam plaintiff 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 government investigators, auditors, consultants and experts, the counsel of other parties, and arbitrators and mediators, concerning an investigation, case, or proceeding.</p> <p>11. "Original source" means an individual who prior to a public disclosure under section 685.3, subsection 5, 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 this chapter.</p> <p>12. "Person" means any natural person, partnership, corporation, association, or other legal entity, including any state or political subdivision of the state.</p> <p>13. "Product of discovery" includes all of the following:</p> <p>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.</p> <p>b. Any digest, analysis, selection, compilation, or derivation of any item listed in paragraph "a".</p> <p>c. Any index or other manner of access to any item listed in paragraph "a".</p> <p>14. "Qui tam plaintiff" means a private plaintiff who brings an action under this chapter on behalf of the state.</p> <p>15. "State" means the state of Iowa.</p> <p>History: <a href="#">2010 Acts, ch 1031, § 338</a>; <a href="#">2011 Acts, ch 129, § 100</a>, 101, 156</p> <p><b>Iowa Code § 685.2 - Acts subjecting person to treble damages, costs, and civil penalties -- exceptions.</b></p> <p>1. A person who commits any of the following acts is liable to the state for a civil penalty of not less than and not more than the civil penalty allowed under the federal False Claims Act, as codified in <a href="#">31 U.S.C. § 3729</a> et seq., as may be adjusted in accordance with the inflation adjustment procedures prescribed in the federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, for each false or fraudulent claim, plus three times the amount of damages which the state sustains:</p> <p>a. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval.</p> <p>b. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.</p> <p>c. Conspires to commit a violation of paragraph "a", "b", "d", "e", "f", or "g".</p> <p>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.</p> <p>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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>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 Iowa national guard, who lawfully may not sell or pledge property.</p> <p>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.</p> <p>2. Notwithstanding subsection 1, the court may assess not less than two times the amount of damages which the state sustains because of the act of the person described in subsection 1, if the court finds all of the following:</p> <p>a. The person committing the violation furnished officials of the state responsible for investigating false claims violations with all information known to such person about the violation within thirty days after the date on which the person first obtained the information.</p> <p>b. The person fully cooperated with the state investigation of such violation.</p> <p>c. At the time the person furnished the state with the information about the violation, a criminal prosecution, civil action, or administrative action had not commenced under this chapter with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.</p> <p>3. A person violating this section shall also be liable to the state for the costs of a civil action brought to recover any such penalty or damages.</p> <p>4. Any information furnished pursuant to subsection 2 is deemed confidential information exempt from disclosure pursuant to chapter 22.</p> <p>5. This section shall not apply to claims, records, or statements made under Title X relating to state revenue and taxation.</p> <p>History: <a href="#">2010 Acts, ch 1031, § 339</a>; <a href="#">2011 Acts, ch 129, § 102</a>, 156</p> <p>Iowa Code § 249A.50 - <b>Fraudulent practices -- investigations and audits -- Medicaid fraud fund.</b></p> <p>&lt;[Text subject to final changes by the Iowa Code Editor for Code 2024.]&gt;</p> <p>1. A person who obtains assistance or payments for medical assistance under this chapter by knowingly making or causing to be made, a false statement or a misrepresentation of a material fact or by knowingly failing to disclose a material fact required of an applicant for aid under the provisions of this chapter and a person who knowingly makes or causes to be made, a false statement or a misrepresentation of a material fact or knowingly fails to disclose a material fact concerning the applicant's eligibility for aid under this chapter commits a fraudulent practice.</p> <p>2. The department of inspections, appeals, and licensing shall conduct investigations and audits as deemed necessary to ensure compliance with the medical assistance program administered under this chapter. The department of inspections, appeals, and licensing shall cooperate with the department on the development of procedures relating to such investigations and audits to ensure compliance with federal and state single state agency requirements.</p> <p>3. a. A Medicaid fraud fund is created in the state treasury under the authority of the department of inspections, appeals, and licensing. Moneys from penalties, investigative costs recouped by the Medicaid fraud control unit, and other amounts received as a result of prosecutions involving the department of inspections, appeals, and licensing investigations and audits to ensure compliance with the medical assistance program that are not credited to the program shall be credited to the fund.</p> <p>b. Notwithstanding <a href="#">section 8.33</a>, moneys credited to the fund from any other account or fund shall not revert to the other account or fund. Moneys in the fund shall only be used as provided in appropriations from the fund and shall be used in accordance with applicable laws, regulations, and the policies of the office of inspector general of the United States department of health and human services.</p> <p>c. For the purposes of this subsection, “investigative costs” means the reasonable value of a Medicaid fraud control unit investigator's, auditor's or employee's time, any moneys expended by the Medicaid fraud control unit, and the reasonable fair market value of resources used or expended by the Medicaid fraud control unit in a case resulting in a criminal conviction of a provider under this chapter or chapter 714 or 715A.</p> <p>Credits</p> <p>Transferred from § 249A.7 by the Iowa Code Editor for Code 2014 pursuant to the directive in <a href="#">Acts 2013 (85 G.A.) ch. 24</a>, S.F. 357, § 14. Amended by <a href="#">Acts 2023 (90 G.A.) S.F. 514, §§ 812, 1962, 1963, eff. July 1, 2023</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>Iowa Code § 249A.51 - Fraudulent practice.</b><br/>A person who knowingly makes or causes to be made false statements or misrepresentations of material facts or knowingly fails to disclose material facts in application for payment of services or merchandise rendered or purportedly rendered by a provider participating in the medical assistance program under this chapter commits a fraudulent practice.</p> <p>📌 <b>History:</b> <a href="#">21 Acts, ch 107, § 12</a> CS91, § 249A.8; <a href="#">27 Acts, ch 56, § 4</a>; <a href="#">2013 Acts, ch 24, § 14</a>; C2014, § 249A.51</p> <p><i>Iowa Code § 714.8 - Fraudulent practices defined.</i><br/><b><i>Fraudulent practices defined.</i></b></p> <hr/> <p>A person who does any of the following acts is guilty of a fraudulent practice:</p> <ol style="list-style-type: none"><li>1. Makes, tenders or keeps for sale any warehouse receipt, bill of lading, or any other instrument purporting to represent any right to goods, with knowledge that the goods represented by such instrument do not exist.</li><li>2. Knowingly attaches or alters any label to any goods offered or kept for sale so as to materially misrepresent the quality or quantity of such goods, or the maker or source of such goods.</li><li>3. Knowingly executes or tenders a false certification under penalty of perjury, false affidavit, or false certificate, if the certification, affidavit, or certificate is required by law or given in support of a claim for compensation, indemnification, restitution, or other payment.</li><li>4. Makes any entry in or alteration of any public records, or any records of any corporation, partnership, or other business enterprise or nonprofit enterprise, knowing the same to be false.</li><li>5. Removes, alters or defaces any serial or other identification number, or any owners' identification mark, from any property not the person's own.</li><li>6. For the purpose of soliciting assistance, contributions, or other thing of value, falsely represents oneself to be a veteran of the armed forces of the United States, or a member of any fraternal, religious, charitable, or veterans organization, or any pretended organization of a similar nature, or to be acting on behalf of such person or organization.</li><li>7. Manufactures, sells, or keeps for sale any token or device suitable for the operation of a coin-operated device or vending machine, with the intent that such token or device may be so used, or with the representation that they can be so used; provided, that the owner or operator of any coin-operated device or vending machine may sell slugs or tokens for use in the person's own devices.</li><li>8. Manufactures or possesses any false or counterfeit label, with the intent that it be placed on merchandise to falsely identify its origin or quality, or who sells any such false or counterfeit label with the representation that it may be so used.</li><li>9. Alters or renders inoperative or inaccurate any meter or measuring device used in determining the value of or compensation for the purchase, use or enjoyment of property, with the intent to defraud any person.</li><li>10. Does any act expressly declared to be a fraudulent practice by any other section of the Code.</li><li>11. Removes, defaces, covers, alters, or destroys any component part number as defined in <a href="#">section 321.1</a>, vehicle identification number as defined in <a href="#">section 321.1</a>, or product identification number as defined in <a href="#">section 321.1</a>, for the purpose of concealing or misrepresenting the identity or year of manufacture of the component part or vehicle.</li><li>12. Knowingly transfers or assigns a legal or equitable interest in property, as defined in <a href="#">section 702.14</a>, for less than fair consideration, with the intent to obtain public assistance under chapters 16, 35B, 35D, and 347B, or Title VI, subtitles 2 through 6, or accepts a transfer of or an assignment of a legal or equitable interest in property, as defined in <a href="#">section 702.14</a>, for less than fair consideration, with the intent of enabling the party transferring the property to obtain public assistance under chapters 16, 35B, 35D, and 347B, or Title VI, subtitles 2 through 6. A transfer or assignment of property for less than fair consideration within one year prior to an application for public assistance benefits shall be evidence of intent to transfer or assign the property in order to obtain public assistance for which a person is not eligible by reason of the amount of the person's assets. If a person is found guilty of a fraudulent practice in the transfer or assignment of property under this subsection the maximum sentence shall be the penalty established for a serious misdemeanor and <a href="#">sections 714.2</a>, <a href="#">714.10</a>, and <a href="#">714.11</a> shall not apply.</li><li>13. Fraudulent practices in connection with targeted small business programs.<ol style="list-style-type: none"><li>a. <ol style="list-style-type: none"><li>(1) Knowingly transfers or assigns assets, ownership, or equitable interest in property of a business to a woman or minority person primarily for the purpose of obtaining benefits under targeted small business programs if the transferor would otherwise not be qualified for such programs.</li><li>(2) Solicits and is awarded a state contract on behalf of a targeted small business for the purpose of transferring the contract to another for a percentage if the person transferring or intending to transfer the work had no intention of performing the work.</li><li>(3) Knowingly falsifying information on an application for the purpose of obtaining benefits under targeted small business programs.</li></ol></li><li>b. A violation under this subsection is grounds for decertification of the targeted small business connected with the violation. Decertification shall be in addition to any penalty otherwise authorized by this section.</li></ol></li><li>14.</li></ol> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>a. Makes payment pursuant to an agreement with a dealer or market agency for livestock held by the dealer or market agency by use of a financial instrument which is a check, share draft, draft, or written order on any financial institution, as defined in <a href="#">section 203.1</a>, if after seven days from the date that possession of the livestock is transferred pursuant to the purchase, the financial institution refuses payment on the instrument because of insufficient funds in the maker's account.</p> <p>b. This subsection is not applicable if the maker pays the holder of the instrument the amount due on the instrument within one business day from a receipt of notice by certified mail from the holder that payment has been refused by the financial institution.</p> <p>c. As used in this subsection, “dealer” means a person engaged in the business of buying or selling livestock, either on the person’s own account, or as an employee or agent of a vendor or purchaser. “Market agency” means a person engaged in the business of buying or selling livestock on a commission basis.</p> <p>15. Obtains or attempts to obtain the transfer of possession, control, or ownership, of the property of another by deception through communications conducted primarily by telephone and involving direct or implied claims that the other person contacted has won or is about to win a prize, or involving direct or implied claims that the other person contacted may be able to recover any losses suffered by such other person in connection with a prize promotion.</p> <p>16. Knowingly provides false information to the treasurer of state when claiming, pursuant to <a href="#">section 556.12</a>, an interest in unclaimed property held by the state, or knowingly provides false information to a person or fails to disclose the nature, value, and location of unclaimed property prior to entering into a contract to receive compensation to recover or assist in the recovery of property reported as unclaimed pursuant to <a href="#">section 556.11</a>.</p> <p>17. A packer who includes a confidentiality provision in a contract with a livestock seller in violation of <a href="#">section 202.4.4</a>.</p> <p>18.</p> <p>a. Manufactures, creates, reproduces, alters, possesses, uses, transfers, or otherwise knowingly contributes to the production or use of a fraudulent retail sales receipt or universal product code label with intent to defraud another person engaged in the business of retailing.</p> <p>b. For purposes of this subsection:</p> <p>(1) “Retail sales receipt” means a document intended to evidence payment for goods or services.</p> <p>(2) “Universal product code label” means the unique ten-digit bar code placed on the packaging of an item that may be used for purposes including but not limited to tracking inventory, maintaining price information in a computerized database, and serving as proof of purchase of a particular item.</p> <p>19. A contractor who enforces a provision in a production contract that provides that information contained in the production contract is confidential as provided in <a href="#">section 202.3</a>.</p> <p>20. A contract seller who intentionally provides inaccurate information with regard to any matter required to be disclosed under <a href="#">section 558.70</a>, subsection 1, or <a href="#">section 558.4.4</a>.</p> <p>21. Knowingly, by deception and with intent to defraud another person, represents that the child expected as the result of that person’s pregnancy or the pregnancy of another person may be available for adoption.</p> <p>22. Practicing veterinary medicine without a valid license or temporary permit issued by the board of veterinary medicine pursuant to chapter 169, as described in section 169.19.</p> <p><i>History - C51, § 2744, 2755; R60, § 4394, 4405; C73, § 4073, 4084, 4088; C97, § 5041, 5056, 5068; C24, 27, § 13045, 13058, 13059, 13071; C31, 35, § 13045, 13058, 13059, 13071, 13092-d1; C39, § 13045, 13058, 13059, 13071, 13092.1; C46, § 713.1, 713.13, 713.14, 713.26, 714.12; C50, 54, 58, 62, § 713.1, 713.13, 713.14, 713.26, 713.36 - 713.38, 714.12; C66, 71, 73, 75, 77, § 713.1, 713.13, 713.14, 713.26, 713.36 - 713.38, 713.40, 714.12; C79, 81, § 714.8; 84 Acts, ch 1048, § 2; 85 Acts, ch 195, § 61; 90 Acts, ch 1156, § 12; 91 Acts, ch 15, § 1; 91 Acts, ch 258, § 65; 94 Acts, ch 1023, § 70; 94 Acts, ch 1185, § 1; 96 Acts, ch 1038, § 2; 99 Acts, ch 88, § 9, 13; 99 Acts, ch 107, § 1; 99 Acts, ch 108, § 11; 99 Acts, ch 169, § 21, 22, 24; 2002 Acts, ch 1136, § 5, 6; 2009 Acts, ch 133, § 178; 2011 Acts, ch 34, § 146; 2017 SF433, § 24, eff. July 1, 2017.; 2023 Ia. Legis. Serv. H.F. 670</i></p> <hr/> <p><b>Iowa Code § 714.14 - Value for purposes of fraudulent practices.</b></p> <p>1. The value of property or service is its highest value by any reasonable standard at the time the fraudulent practice is committed. Reasonable standard includes but is not limited to market value within the community, actual value, or replacement value.</p> <p>2. If money, property, or a service involved in two or more acts of fraudulent practice is from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the fraudulent practices are attributable to a single scheme, plan, or conspiracy, these acts may be considered as a single fraudulent practice and the value may be the total value of all money, property, and services involved.</p> <p> <b>History:</b> C79, 81, § 714.14; 84 Acts, ch 1162, § 2; <a href="#">2014 Acts, ch 1055, § 3</a>; <a href="#">2015 Acts, ch 30, § 193</a>, eff. July 1, 2015..</p> <p><b>Iowa Code § 507E.3 - Fraudulent submissions -- penalty.</b><br/><a href="https://www.legis.iowa.gov/DOCS/LACODE/2003/507E/3.html">https://www.legis.iowa.gov/DOCS/LACODE/2003/507E/3.html</a></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>507E.3 Fraudulent submissions -- penalty.</p> <p>1. For purposes of this chapter, "<i>statement</i>" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damage, bill for services, diagnosis, prescription, hospital or physician record, X ray, test result, or other evidence of loss, injury, or expense.</p> <p>2. A person commits a class "D" felony if the person, with the intent to defraud an insurer, does any of the following:</p> <p><i>a.</i> Presents or causes to be presented to an insurer, any written document or oral statement, including a computer-generated document, as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.</p> <p><i>b.</i> Assists, abets, solicits, or conspires with another to present or cause to be presented to an insurer, any written document or oral statement, including a computer-generated document, that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.</p> <p><i>c.</i> Presents or causes to be presented to an insurer, any written document or oral statement, including a computer-generated document, as part of, or in, an application for insurance coverage, knowing that such document or statement contains false information concerning a material fact.</p> <p><b>History:</b> <a href="#"><i>94 Acts, ch 1072, § 3</i></a>, 9; <a href="#"><i>95 Acts, ch 185, § 46</i></a>; <a href="#"><i>96 Acts, ch 1045, § 2</i></a></p> <p>HUMAN SERVICES DEPARTMENT[441]<br/>TITLE VIII: MEDICAL ASSISTANCE<br/>CHAPTER 79: OTHER POLICIES RELATING TO PROVIDERS OF MEDICAL AND REMEDIAL CARE<br/><b>Iowa Admin. Code 441-79.2(249A)441-79.2(249A) Sanctions</b></p> <p>79.2(1) Definitions.</p> <p>"Affiliates" means persons having an overt or covert relationship such that any one of them directly or indirectly controls or influences or has the power to control or influence another.</p> <p>"Iowa Medicaid enterprise" means the entity comprised of department staff and contractors responsible for the management and reimbursement of Medicaid services for the benefit of Medicaid members.</p> <p>"Person" means any individual human being or any company, firm, association, corporation, institution, or other legal entity. "Person" includes but is not limited to a provider and any affiliate of a provider.</p> <p>"Probation" means a specified period of conditional participation in the medical assistance program.</p> <p>"Provider" means an individual human being, firm, corporation, association, institution, or other legal entity, which is providing or has been approved to provide medical assistance to a member pursuant to the state medical assistance program.</p> <p>"Suspension from participation" means an exclusion from participation for a specified period of time.</p> <p>"Suspension of payments" means the temporary cessation of payments due a person until the resolution of a matter in dispute between a person and the department.</p> <p>"Termination from participation" means a permanent exclusion from participation in the medical assistance program.</p> <p>"Withholding of payments" means a reduction or adjustment of the amounts paid to a person on pending and subsequently submitted bills for purposes of offsetting payments made to, received by, or in the possession of a person.</p> <p>79.2(2) Grounds for sanctions. The department may impose sanctions against any person when appropriate. Appropriate grounds for the department to impose sanctions include, but are not limited to, the following:</p> <p>a. Presenting or causing to be presented for payment any false, intentionally misleading, or fraudulent claim for services or merchandise.</p> <p>b. Submitting or causing to be submitted false, intentionally misleading, or fraudulent information for the purpose of obtaining greater compensation than that to which the person is legally entitled, including charges in excess of usual and customary charges.</p> <p>c. Submitting or causing to be submitted false, intentionally misleading, or fraudulent information for the purpose of meeting prior authorization or level of care requirements.</p> <p>d. Upon lawful demand, failing to disclose or make available to the department, the department's authorized agent, any law enforcement or peace officer, any agent of the department of inspections and appeals' Medicaid fraud control unit, any agent of the auditor of state, the Iowa department of justice, any false claims investigator as defined under Iowa Code chapter 685, or any other duly authorized federal or state agent or agency records of services provided to medical assistance members or records of payments made for those services.</p> <p>e. Failing to provide or maintain quality services, or a requisite assurance of a framework of quality services to medical assistance recipients within accepted medical community standards as adjudged by professional peers if applicable. For purposes of this subrule, "quality services" means services provided in accordance with the applicable rules and regulations governing the services.</p> <p>f. Engaging in a course of conduct or performing an act which is in violation of any federal, state, or local statute, rule, regulation, or ordinance, or an applicable contractual provision, that relates to, or arises out of, any</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>publicly or privately funded health care program, including but not limited to any state medical assistance program.</p> <p>g. Submitting a false, intentionally misleading, or fraudulent certification or statement, whether the certification or statement is explicit or implied, to the department or the department's representative or to any other publicly or privately funded health care program.</p> <p>h. Overutilization of the medical assistance program by inducing, furnishing or otherwise causing a member to receive services or merchandise not required or requested.</p> <p>i. Violating any provision of Iowa Code chapter 249A, or any rule promulgated pursuant thereto, or violating any federal or state false claims Act, including but not limited to Iowa Code chapter 685.</p> <p>j. Submitting or causing to be submitted false, intentionally misleading, or fraudulent information in an application for provider status under the medical assistance program or any quality review or other submission required to maintain good standing in the program.</p> <p>k. Violating any law, regulation, or code of ethics governing the conduct of an occupation, profession, or other regulated business activity, when the violation relates to, or arises out of, the delivery of services under the state medical assistance program.</p> <p>l. Breaching any settlement or similar agreement with the department, or failing to abide by the terms of any agreement with any other entity relating to, or arising out of, the state medical assistance program.</p> <p>m. Failing to meet standards required by state or federal law for participation, including but not limited to licensure.</p> <p>n. Exclusion from Medicare or any other state or federally funded medical assistance program.</p> <p>o. Except as authorized by law, charging a person for covered services over and above what the department paid or would pay or soliciting, offering, or receiving a kickback, bribe, or rebate, or accepting or rebating a fee or a charge for medical assistance or patient referral, or a portion thereof. This ground does not include the collection of a copayment or deductible if otherwise allowed by law.</p> <p>p. Failing to correct a deficiency in provider operations after receiving notice of the deficiency from the department or other federal or state agency.</p> <p>q. Formal reprimand or censure by an association of the provider's peers or similar entity related to professional conduct.</p> <p>r. Suspension or termination for cause from participation in another program, including but not limited to workers' compensation or any publicly or privately funded health care program.</p> <p>s. Indictment or other institution of criminal charges for, or plea of guilty or nolo contendere to, or conviction of, any crime punishable by a term of imprisonment greater than one year, any crime of violence, any controlled substance offense, or any crime involving an allegation of dishonesty or negligent practice resulting in death or injury to a provider's patient.</p> <p>t. Violation of a condition of probation, suspension of payments, or other sanction.</p> <p>u. Loss, restriction, or lack of hospital privileges for cause.</p> <p>v. Negligent, reckless, or intentional endangerment of the health, welfare, or safety of a person.</p> <p>w. Billing for services provided by an excluded, nonenrolled, terminated, suspended, or otherwise ineligible provider or person.</p> <p>x. Failing to submit a self-assessment, corrective action plan, or other requirement for continued participation in the medical assistance program, or failing to repay an overpayment of medical assistance funds, in a timely manner, as set forth in a rule or other order.</p> <p>y. Attempting, aiding or abetting, conspiring, or knowingly advising or encouraging another person in the commission of one or more of the grounds specified herein.</p> <p>79.2(3) Sanctions.</p> <p>a. The department may impose any of the following sanctions on any person:</p> <p>(1) A term of probation for participation in the medical assistance program.</p> <p>(2) Termination from participation in the medical assistance program.</p> <p>(3) Suspension from participation in the medical assistance program.</p> <p>(4) Suspension of payments in whole or in part.</p> <p>(5) Prior authorization of services.</p> <p>(6) Review of claims prior to payment.</p> <p>b. The withholding of a payment or a recoupment of medical assistance funds is not, in itself, a sanction. Overpayments, civil monetary penalties, and interest may also be withheld from payments without imposition of a sanction.</p> <p>c. Mandatory suspensions and terminations.</p> <p>(1) Suspension or termination from participation in the medical assistance program is mandatory when a person is suspended or terminated from participation in the Medicare program, another state's medical assistance program, or by any licensing body. The suspension or termination from participation in the medical assistance program shall be retroactive to the date established by the Centers for Medicare and Medicaid Services or other state or body and, in the case of a suspension, must continue until at least such time as the Medicare or other state's or body's suspension ends.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(2) Termination is mandatory upon entry of final judgment, in the Iowa district court or a federal district court of the United States, of liability of the person in a false claims action.</p> <p>(3) Suspension from participation is mandatory whenever a person, or an affiliate of the person, has an outstanding overpayment of medical assistance funds, as defined in Iowa Code chapter 249A.</p> <p>(4) Upon notification from the U.S. Department of Justice, the Iowa department of justice, the department of inspections and appeals, or a similar agency, that a person has failed to respond to a civil investigative demand or other subpoena in a timely manner as set forth in governing law and the demand or other subpoena itself, the department shall immediately suspend the person from participation and suspend all payments to the person. The suspension and payment suspension shall end upon notification that the person has responded to the demand in full.</p> <p>79.2(4) Imposition and extent of sanction. The department shall consider the totality of the circumstances in determining the sanctions to be imposed. The factors the department may consider include, but are not limited to:</p> <p>a. Seriousness of the offense.</p> <p>b. Extent of violations.</p> <p>c. History of prior violations.</p> <p>d. Prior imposition of sanctions.</p> <p>e. Prior provision of provider education (technical assistance).</p> <p>f. Provider willingness to obey program rules.</p> <p>g. Whether a lesser sanction will be sufficient to remedy the problem.</p> <p>h. Actions taken or recommended by peer review groups or licensing boards.</p> <p>79.2(5) Scope of sanction.</p> <p>a. Suspension or termination from participation shall preclude the person from submitting claims for payment, whether personally or through claims submitted by any other person or affiliate, for any services or supplies except for those services provided before the suspension or termination.</p> <p>b. No person may submit claims for payment for any services or supplies provided by a person or affiliate who has been suspended or terminated from participation in the medical assistance program except for those services provided before the suspension or termination.</p> <p>c. When the provisions of this subrule are violated, the department may sanction any person responsible for the violation.</p> <p>79.2(6) Notice to third parties. When a sanction is imposed, the department may notify third parties of the findings made and the sanction imposed, including but not limited to law enforcement or peace officers and federal or state agencies. The imposition of a sanction is not required before the department may notify third parties of a person's conduct. In accordance with <a href="#">42 CFR § 1002.212</a>, the department must notify other state agencies, applicable licensing boards, the public, and Medicaid members, as provided in <a href="#">42 CFR §§ 1001.2005</a> and <a href="#">1001.2006</a>, whenever the department initiates an exclusion under <a href="#">42 CFR § 1002.210</a>.</p> <p>79.2(7) Notice of violation.</p> <p>a. Any order of sanction shall be in writing and include the name of the person subject to sanction, identify the ground for the sanction and its effective date, and be sent to the person's last-known address. If the department sanctions a provider, the order of sanction shall also include the national provider identification number of the provider and be sent to the provider's last address on file within the medical assistance program. Proof of mailing to such address shall be conclusive evidence of proper service of the sanction upon the provider. The department of inspections and appeals is not required to comply with the additional notification provisions of 441--paragraph 7.10(7)"c" for appeals certified for hearing under this chapter.</p> <p>b. In the case of a currently enrolled provider otherwise in good standing with all program requirements, the provider shall have 15 days subsequent to the date of the notice prior to the department action to show cause why the action should not be taken. If the provider fails to do so, the sanction shall remain effective pending any subsequent appeal under 441--Chapter 7. If the provider attempts to show cause but the department determines the sanction should remain effective pending any subsequent appeal under 441--Chapter 7, the provider may seek a temporary stay of the department's action from the director or the director's designee by filing an application for stay with the appeals section. The director or the director's designee shall consider the factors listed in <a href="#">Iowa Code section 17A.19(5)"c."</a></p> <p>79.2(8) Suspension or withholding of payments. The department may withhold payments on pending and subsequently received claims in an amount reasonably calculated to approximate the amounts in question due to a sanction, incorrect payment, civil monetary penalty, or other adverse action and may also suspend payment or participation pending a final determination. If the department withholds or suspends payments, it shall notify</p> |




| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>the person in writing within the time frames prescribed by federal law for cases related to a credible allegation of fraud, and within ten days for all other cases.</p> <p>79.2(9) Civil monetary penalties and interest. Civil monetary penalties and interest assessed in accordance with 2013 Iowa Acts, Senate File 357, section 5 or section 11, are not allowable costs for any aspect of determining payment to a person within the medical assistance program. Under no circumstance shall the department reimburse a person for such civil monetary penalties or interest.</p> <p>79.2(10) Report and return of identified overpayment.</p> <p>a. If a person has identified an overpayment, the person must report and return the overpayment in the form and manner set forth in this subrule.</p> <p>b. A person has identified an overpayment if the person has actual knowledge of the existence of the overpayment or acts in reckless disregard or deliberate ignorance of the existence of the overpayment.</p> <p>c. An overpayment required to be reported under 2013 Iowa Acts, Senate File 357, section 3, must be made in writing, addressed to the Program Integrity Unit of the Iowa Medicaid Enterprise, and contain all of the following:</p> <p>(1) Person's name.</p> <p>(2) Person's tax identification number.</p> <p>(3) How the error was discovered.</p> <p>(4) The reason for the overpayment.</p> <p>(5) Claim number(s), as appropriate.</p> <p>(6) Date(s) of service.</p> <p>(7) Member identification number(s).</p> <p>(8) National provider identification (NPI) number.</p> <p>(9) Description of the corrective action plan to ensure the error does not occur again, if applicable.</p> <p>(10) Whether the person has a corporate integrity agreement with the Office of the Inspector General (OIG) or is under the OIG Self-Disclosure Protocol or is presently under sanction by the department.</p> <p>(11) The time frame and the total amount of refund for the period during which the problem existed that caused the refund.</p> <p>(12) If a statistical sample was used to determine the overpayment amount, a description of the statistically valid methodology used to determine the overpayment.</p> <p>(13) A refund in the amount of the overpayment.</p> <p>AUTHORITY:<br/>This rule is intended to implement <a href="#">Iowa Code section 249A.4</a>.</p> <p>HISTORY: ARC 1155C, IAB 10/30/13, effective 1/1/14; ARC 1695C, IAB 10/29/14, effective 1/1/15.</p> <p><b>Iowa Code § 249A.2 – Definitions</b></p> <p>1. “Department” means the department of health and human services.</p> <p>2. “Director” means the director of health and human services.</p> <p>3. “Discretionary medical assistance” means mandatory medical assistance or optional medical assistance provided to medically needy individuals whose income and resources are in excess of eligibility limitations but are insufficient to meet all of the costs of necessary medical care and services, provided that if the assistance includes services in institutions for mental diseases or intermediate care facilities for persons with an intellectual disability, or both, for any group of such individuals, the assistance also includes for all covered groups of such individuals at least the care and services enumerated in Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), and (17), as codified in <a href="#">42 U.S.C. § 1396d(a)</a>, paragraphs (1) through (5), and (17), or any seven of the care and services enumerated in Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (24), as codified in <a href="#">42 U.S.C. § 1396d(a)</a>, paragraphs (1) through (24).</p> <p>4. “Family investment program” means the family investment program eligibility requirements under chapter 239B, except to the extent federal law requires application of the eligibility requirements under chapter 239, Code 1997, as in effect on July 16, 1996.</p> <p>5. “Group health plan cost sharing” means payment under the medical assistance program of a premium, a coinsurance amount, a deductible amount, or any other cost sharing obligation for a group health plan as required by Tit. XIX of the federal Social Security Act, section 1906, as codified in <a href="#">42 U.S.C. § 1396e</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>6. “Mandatory medical assistance” means payment of all or part of the costs of the care and services required to be provided by Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), (17), (21), and (28), as codified in <a href="#">42 U.S.C. § 1396d(a)</a>, paragraphs (1) through (5), (17), (21), and (28).</p> <p>7. “Medical assistance” or “Medicaid” means payment of all or part of the costs of the care and services made in accordance with Tit. XIX of the federal Social Security Act and authorized pursuant to this chapter.</p> <p>8. “Medical assistance program” or “Medicaid program” means the program established under this chapter to provide medical assistance.</p> <p>9. “Medicare cost sharing” means payment under the medical assistance program of a premium, a coinsurance amount, or a deductible amount for federal Medicare as provided by Tit. XIX of the federal Social Security Act, section 1905(p)(3), as codified in <a href="#">42 U.S.C. § 1396d(p)(3)</a>.</p> <p>10. “Optional medical assistance” means payment of all or part of the costs of any or all of the care and services authorized to be provided by Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (6) through (16), (18) through (20), (22) through (27), and (29), as codified in <a href="#">42 U.S.C. § 1396d(a)</a>, paragraphs (6) through (16), and (18) through (20), (22) through (27), and (29).</p> <p>11. “Overpayment” means any funds that a provider receives or retains under the medical assistance program to which the person, after applicable reconciliation, is not entitled. To the extent the provider and the department disagree as to whether the provider is entitled to funds received or retained under the medical assistance program, “overpayment” includes such funds for which the provider's administrative and judicial review remedies under 441 IAC ch. 7 and chapter 17A have been exhausted. For purposes of repayment, an overpayment may include interest in accordance with <a href="#">section 249A.41</a>.</p> <p>12. “Provider” means an individual, firm, corporation, association, or institution which is providing or has been approved to provide medical assistance to recipients under this chapter.</p> <p>13. “Recipient” means a person who receives medical assistance under this chapter.</p> <p>14. “Retained life estate” means any of the following:</p> <p>a. A life estate created by the recipient or recipient's spouse, in which either the recipient or the recipient's spouse held any interest in the property at the time of the creation of the life estate.</p> <p>b. A life estate created for the benefit of the recipient or the recipient's spouse in property in which either the recipient or the recipient's spouse held any interest in the property within five years prior to the creation of the life estate.</p> <p>Credits</p> <p>Acts 1967 (62 G.A.) ch. 223, § 3. Amended by Acts 1969 (63 G.A.) ch. 152, § 52; Acts 1970 (63 G.A.) ch. 1102, § 1; Acts 1973 (65 G.A.) ch. 186, § 18, eff. Jan. 1, 1974; Acts 1974 (65 G.A.) ch. 1165, § 3, eff. May 21, 1974; Acts 1983 (70 G.A.) ch. 96, § 157, eff. July 1, 1983; Acts 1984 (70 G.A.) ch. 1297, § 2; <a href="#">Acts 1989 (73 G.A.) ch. 104, § 1</a>; <a href="#">Acts 1990 (73 G.A.) ch. 1039, § 15, eff. Oct. 1, 1990</a>; <a href="#">Acts 1991 (74 G.A.) ch. 107, § 11</a>; <a href="#">Acts 1991 (74 G.A.) ch. 158, §§ 1, 2</a>; <a href="#">Acts 1993 (75 G.A.) ch. 54, § 5, eff. April 27, 1993</a>; <a href="#">Acts 1996 (76 G.A.) ch. 1129, § 113</a>; <a href="#">Acts 1997 (77 G.A.) ch. 41, § 25, eff. April 18, 1997</a>; <a href="#">Acts 2002 (79 G.A.) ch. 1086, § 1, eff. April 5, 2002</a>; <a href="#">Acts 2010 (83 G.A.) ch. 1061</a>, S.F. 2237, § 180, subsec. 4, par. a, as amended by <a href="#">Acts 2010 (83 G.A.) ch. 1193</a>, H.F. 2531, § 71; <a href="#">Acts 2012 (84 G.A.) ch. 1012</a>, S.F. 2247, § 96; <a href="#">Acts 2013 (85 G.A.) ch. 24</a>, S.F. 357, § 2; <a href="#">Acts 2013 (85 G.A.) ch. 138</a>, S.F. 446, §§ 62 to 64; <a href="#">Acts 2023 (90 G.A.) S.F. 514, § 796, eff. July 1, 2023</a>.</p> <p><b>Iowa Code § 249A.39 - Reporting of overpayment.</b></p> <p>1. A provider who has received an overpayment shall notify in writing, and return the overpayment to, the department, the department's agent, or the department's contractor, as appropriate. The notification shall include the reason for the return of the overpayment.</p> <p>2. Notification and return of an overpayment under this section shall be provided by no later than the later of either of the following, as applicable:</p> <p>a. The date which is sixty days after the date on which the overpayment was identified by the provider.</p> <p>b. The date any corresponding cost report is due.</p> <p>3. A violation of this section is a violation of chapter 685.</p> <p>HISTORY: 2013 Acts, ch 24, § 3</p> <p><b>Iowa Code § 249A.40 - Involuntarily dissolved providers -- overpayments or incorrect payments.</b></p> <p>Medical assistance paid to a provider following administrative dissolution of the provider pursuant to chapter 490, subchapter XIV, part 2, shall be considered incorrectly paid for the purposes of <a href="#">section 249A.53</a> and the provider shall be considered to have received an overpayment for the purposes of this subchapter. For the purposes of this section, the overpayment shall not accrue until after a grace period of ninety days following receipt of notice by the provider of the dissolution from the department. Notwithstanding <a href="#">section 490.1422</a>, or any other similar retroactive provision for reinstatement, the director shall recoup any medical assistance paid to a provider while the provider was dissolved if the provider is not retroactively reinstated within the ninety-day grace period. The principals of the provider shall be personally liable for the incorrect payment or overpayment.</p> <p><b>Credits</b></p> <p>Added by <a href="#">Acts 2013 (85 G.A.) ch. 24</a>, S.F. 357, § 4. Amended by <a href="#">Acts 2021 (89 G.A.) ch. 165</a>, H.F. 844, § 219, eff. Jan. 1, 2022.</p> <p><b>Iowa Code § 249A.41 - Overpayment -- interest.</b></p> <p>1. Interest may be collected upon any overpayment determined to have been made and shall accrue at the rate and in the manner specified in this section.</p> <p>2. Prior to the provision of a notice of overpayment to the provider, interest shall accrue at the statutory rate for prejudgment interest applicable in civil actions.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>3. After the provision of a notice of overpayment to the provider and after all of the provider's administrative and judicial review remedies under 441 IAC ch. 7 and chapter 17A have been exhausted, interest shall accrue at the statutory rate for prejudgment interest applicable in civil actions plus five percent per annum, or the maximum legal rate, whichever is lower.</p> <p>4. At the discretion of the director, interest on an overpayment may be waived in whole or in part when the department determines the imposition of interest would produce an unjust result, would unduly burden the provider, or would substantially delay the prompt and efficient resolution of an outstanding audit or investigation.</p> <p>HISTORY: 2013 Acts, ch 24, § 5</p> <p><b>Iowa Code § 249A.42 - Overpayment -- limitations periods.</b></p> <p>1. An administrative action to recover an overpayment to a provider shall be commenced within five years of the date the overpayment was incurred. For the purposes of this subsection, "incurred" means the date the medical assistance claim was paid, or the date any applicable reconciliation was completed, whichever is later.</p> <p>2. An administrative action to impose a sanction related to an overpayment to a provider shall be commenced within five years of the date the conduct underlying the sanction concluded, or the director discovered such conduct, whichever is later.</p> <p>HISTORY: 2013 Acts, ch 24, § 6</p> <p><b>Iowa Code § 249A.43 - Provider overpayment -- notice -- judgment.</b></p> <p>1. Any overpayment to a provider under this chapter shall become a judgment against the provider, by operation of law, ninety days after a notice of overpayment is personally served upon the enrolled provider as required in the Iowa rules of civil procedure or by certified mail, return receipt requested, by the director or the attorney general or, if applicable, upon exhaustion of the provider's administrative and judicial review remedies under 441 IAC ch. 7 or chapter 17A, whichever is later. The judgment is entitled to full faith and credit in all states.</p> <p>2. The notice of overpayment shall include the amount and cause of the overpayment, the provider's appeal rights, and a disclaimer that a judgment may be established if an appeal is not timely filed or if an appeal is filed and at the conclusion of the administrative process under chapter 17A a determination is made that there is an overpayment.</p> <p>3. An affidavit of service of a notice of entry of judgment shall be made by first class mail at the address where the debtor was served with the notice of overpayment. Service is completed upon mailing as specified in this subsection.</p> <p>4. On or after the date an unpaid overpayment becomes a judgment by operation of law, the director or the attorney general may file all of the following with the district court:</p> <p>a. A statement identifying, or a copy of, the notice of overpayment.</p> <p>b. Proof of service of the notice of overpayment.</p> <p>c. An affidavit of default, stating the full name, occupation, place of residence, and last known post office address of the debtor; the name and post office address of the department; the date or dates the overpayment was incurred; the program under which the debtor was overpaid; and the total amount of the judgment.</p> <p>5. Nothing in this section shall be construed to impede or restrict alternative methods of recovery of the overpayments specified in this section or of overpayments which do not meet the requirements of this section.</p> <p>HISTORY: 2013 Acts, ch 24, § 7; 2013 Acts, ch 140, § 59</p> <p><b>Iowa Code § 249A.44 - Overpayment -- emergency relief.</b></p> <p>1. Concurrently with a withholding of payment, the imposition of a sanction, or the institution of a criminal, civil, or administrative proceeding against a provider or other person for overpayment, the director or the attorney general may bring an action for a temporary restraining order or injunctive relief to prevent a provider or other person from whom recovery may be sought, from transferring property or otherwise taking action to protect the provider's or other person's business inconsistent with the recovery sought.</p> <p>2. To obtain such relief, the director or the attorney general shall demonstrate all necessary requirements for the relief to be granted.</p> <p>3. If an injunction is granted, the court may appoint a receiver to protect the property and business of the provider or other person from whom recovery may be sought. The court shall assess the costs of the receiver to the provider or other person.</p> <p>4. The director or the attorney general may file a lis pendens on the property of the provider or other person during the pendency of a criminal, civil, or administrative proceeding.</p> <p>5. When requested by the court, the director, or the attorney general, a provider or other person from whom recovery may be sought shall have an affirmative duty to fully disclose all property and liabilities to the requester.</p> <p>6. An action brought under this section may be brought in the district court for Polk county or any other county in which a provider or other person from whom recovery may be sought has its principal place of business or is domiciled.</p> <p>HISTORY: 2013 Acts, ch 24, § 8</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p><b>Iowa Code § 249A.45 - Provider's third-party submissions.</b></p> <p>1. The department may refuse to accept a financial and statistical report, cost report, or any other submission from any third party acting under a provider's authority or direction to prepare or submit such documents or information, for good cause shown. For the purposes of this section, "good cause" includes but is not limited to a pattern or practice of submitting unallowable costs on cost reports; making a false statement or certification to the director or any representative of the department; professional negligence or other demonstrated lack of knowledge of the cost reporting process; conviction under a federal or state law relating to the operation of a publicly funded program; or submission of a false claim under chapter 685.</p> <p>2. If the department refuses to accept a cost report from a third party for good cause under this section, the third party shall be strictly liable to the provider for all fees incurred in preparation of the cost report, as well as reasonable attorney fees and costs. The department shall not take any adverse action against a provider that results from the unintentional delay in the submission of a new cost report or other submission necessitated by the department's refusal to accept a cost report or other submission under this section. The department shall notify an affected provider within seven business days of any refusal to accept a cost report.</p> <p>HISTORY: 2013 Acts, ch 24, § 9</p> <p><b>Iowa Code § 249A.46 - Liability of other persons -- repayment of claims.</b></p> <p>1. The department may require repayment of medical assistance paid from the person submitting an incorrect or improper claim, the person causing the claim to be submitted, or the person receiving payment for the claim.</p> <p>2. Nothing in this section shall be construed to impede or restrict alternative recovery methods for claims specified in this section or claims which do not meet the requirements of this section.</p> <p><b>HISTORY:</b> 2013 Acts, ch 24, § 10</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                 | <p><b>Iowa Code § 249A.47- Improperly filed claims -- other violations -- imposition of monetary recovery and sanctions.</b></p> <p>1. In addition to any other remedies or penalties prescribed by law, including but not limited to those specified pursuant to <a href="#">section 249A.51</a> or chapter 685, all of the following shall be applicable to violations under the medical assistance program:</p> <p>a. A person who intentionally and purposefully presents or causes to be presented to the department a claim that the department determines meets any of the following criteria is subject to a civil penalty of not more than ten thousand dollars for each item or service:</p> <p>(1) A claim for medical or other items or services that the provider knows was not provided as claimed, including a claim by any provider 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 billing code that the provider knows will result in a greater payment to the provider than the billing code the provider knows is applicable to the item or service actually provided.</p> <p>(2) A claim for medical or other items or services the provider knows to be false or fraudulent.</p> <p>(3) A claim for a physician service or an item or service incident to a physician service by a person who knows that the individual who furnished or supervised the furnishing of the service meets any of the following:</p> <p>(a) Was not licensed as a physician.</p> <p>(b) Was licensed as a physician, but such license had been obtained through a misrepresentation of material fact.</p> <p>(c) 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.</p> <p>(4) A claim for medical or other items or services furnished during a period in which the provider was excluded from providing such items or services.</p> <p>(5) A claim for a pattern of medical or other items or services that a provider knows were not medically necessary.</p> <p>b. A provider who intentionally and purposefully presents or causes to be presented to any person a request for payment which is in violation of the terms of either of the following is subject to a civil penalty of not more than ten thousand dollars for each item or service:</p> <p>(1) An agreement with the department or a requirement of a state plan under 'Tit. XIX or XXI<u><a href="#"></a></u> of the federal Social Security Act not to charge a person for an item or service in excess of the amount permitted to be charged.</p> <p>(2) An agreement to be a participating provider.</p> <p>c. A provider who is not an organization, agency, or other entity, and knowing that the provider is excluded from participating in a program under 'Tit. XVIII, XIX, or XXI of the federal Social Security Act at the time of the exclusion, who does any of the following, is subject to a civil penalty of ten thousand dollars for each day that the prohibited relationship occurs:</p> <p>(1) Retains a direct or indirect ownership or control interest in an entity that is participating in such programs, and knows of the action constituting the basis for the exclusion.</p> <p>(2) Is an officer or managing employee of such an entity.</p> <p>d. A provider who intentionally and purposefully offers to or transfers remuneration to any individual eligible for benefits under 'Tit. XIX or XXI of the federal Social Security Act and who knows such offer or remuneration is likely to influence such individual to order or receive from a particular provider any item or service for which payment may be made, in whole or in part, under 'Tit. XIX or XXI of the federal Social Security Act, is subject to a civil penalty of not more than ten thousand dollars for each item or service.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>e. A provider who intentionally and purposefully arranges or contracts, by employment or otherwise, with an individual or entity that the provider knows is excluded from participation under Tit. XVIII, XIX, or XXI of the federal Social Security Act, for the provision of items or services for which payment may be made under such titles, is subject to a civil penalty of not more than ten thousand dollars for each item or service.</p> <p>f. A provider who intentionally and purposefully offers, pays, solicits, or receives payment, directly or indirectly, to reduce or limit services provided to any individual eligible for benefits under Tit. XVIII, XIX, or XXI of the federal Social Security Act, is subject to a civil penalty of not more than fifty thousand dollars for each act.</p> <p>g. A provider who intentionally and purposefully 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 Tit. XIX or XXI of the federal Social Security Act, is subject to a civil penalty of not more than fifty thousand dollars for each false record or statement.</p> <p>h. A provider who intentionally and purposefully and without good cause fails to grant timely access, upon reasonable request, to the department for the purpose of audits, investigations, evaluations, or other functions of the department, is subject to a civil penalty of fifteen thousand dollars for each day of the failure.</p> <p>i. A provider who intentionally and purposefully 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 Tit. XVIII, XIX, or XXI of the federal Social Security Act, including a managed care organization or entity that applies to participate as a provider of services or supplier in such a managed care organization or plan, is subject to a civil penalty of fifty thousand dollars for each false statement, omission, or misrepresentation of a material fact.</p> <p>j. A provider who intentionally and purposefully fails to report and return an overpayment in accordance with <a href="#">section 249A.39</a> is subject to a civil penalty of ten thousand dollars for each failure to report and return an overpayment.</p> <p>2. In addition to the civil penalties prescribed under subsection 1, for any violation specified in subsection 1, a provider shall be subject to the following, as applicable:</p> <p>a. For violations specified in subsection 1, paragraph “a”, “b”, “c”, “d”, “e”, “g”, “h”, or “j”, an assessment of not more than three times the amount claimed for each such item or service in lieu of damages sustained by the department because of such claim.</p> <p>b. For a violation specified in subsection 1, paragraph “f”, damages of not more than three 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.</p> <p>c. For a violation specified in subsection 1, paragraph “i”, an assessment of not more than three times the total amount claimed for each item or service for which payment was made based upon the application containing the false statement, omission, or misrepresentation of a material fact.</p> <p>3. In determining the amount or scope of any penalty or assessment imposed pursuant to a violation specified in subsection 1, the director shall consider all of the following:</p> <p>a. The nature of the claims and the circumstances under which they were presented.</p> <p>b. The degree of culpability, history of prior offenses, and financial condition of the person against whom the penalties or assessments are levied.</p> <p>c. Such other matters as justice may require.</p> <p>4. Of any amount recovered arising out of a claim under Tit. XIX or XXI of the federal Social Security Act, the department shall receive the amount bearing the same proportion paid by the department for such claims, including any federal share that must be returned to the centers for Medicare and Medicaid services of the United States department of health and human services. The remainder of any amount recovered shall be deposited in the general fund of the state.</p> <p>5. Civil penalties levied under this section are appealable under 441 IAC ch. 7, but, notwithstanding any provision to the contrary in that chapter, the appellant shall bear the burden to prove by clear and convincing evidence that the claim was not filed improperly.</p> <p>6. For the purposes of this section, “claim” includes but is not limited to the submission of a cost report.</p> <p><b>Credits</b></p> <p>Added by <a href="#">Acts 2013 (85 G.A.) ch. 24</a>, S.F. 357, § 11. Amended by <a href="#">Acts 2014 (85 G.A.) ch. 1092</a>, H.F. 2423, § 53, eff. July 1, 2014; <a href="#">Acts 2018 (87 G.A.) ch. 1041</a>, H.F. 2348, § 64, eff. July 1, 2018.</p> <p>.</p> <hr/> <p><b><i>Iowa Code § 249A.48 - Temporary moratoria.</i></b></p> <p>1. The Medicaid program shall impose a temporary moratorium on the enrollment of new providers or provider types identified by the centers for Medicare and Medicaid services of the United States department of health and human services as posing an increased risk to the Medicaid program.</p> <p>a. This section shall not be interpreted to require the Medicaid program to impose a moratorium if the Medicaid program determines that imposition of a temporary moratorium would adversely affect access of recipients to medical assistance services.</p> <p>b. If the Medicaid program makes a determination as specified in paragraph “a”, the Medicaid program shall notify the centers for Medicare and Medicaid services of the United States department of health and human services in writing.</p> <p>2. The Medicaid program may impose a temporary moratorium on the enrollment of new providers, or impose numerical caps or other limits that the Medicaid program and the centers for Medicare and Medicaid services identify as having a significant potential for fraud, waste, or abuse.</p> <p>a. Before implementing the moratorium, caps, or other limits, the Medicaid program shall determine that its action would not adversely impact access by recipients to Medicaid services.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>b. The Medicaid program shall notify, in writing, the centers for Medicare and Medicaid services, if the Medicaid program seeks to impose a moratorium under this subsection, including all of the details of the moratorium. The Medicaid program shall receive approval from the centers for Medicare and Medicaid services prior to imposing a moratorium under this subsection.</p> <p>3. a. The Medicaid program shall impose any moratorium for an initial period of six months.</p> <p>b. If the Medicaid program determines that it is necessary, the Medicaid program may extend the moratorium in six-month increments. Each time a moratorium is extended, the Medicaid program shall document, in writing, the necessity for extending the moratorium.</p> <p><b>Credits</b></p> <p>Added by <a href="#">Acts 2013 (85 G.A.) ch. 24</a>, S.F. 357, § 12. Amended by <a href="#">Acts 2023 (90 G.A.) S.F. 514, § 811, eff. July 1, 2023</a>.</p> <hr/> <p><b>Iowa Code § 249A.49 - Internet site -- providers found in violation of medical assistance program.</b></p> <p>1. The director shall maintain on the department's internet site, in a manner readily accessible by the public, all of the following:</p> <p>a. A list of all providers that the department has terminated, suspended, or placed on probation.</p> <p>b. A list of all providers that have failed to return an identified overpayment of medical assistance within the time frame specified in section 249A.41.</p> <p>c. A list of all providers found liable for a false claims law violation related to the medical assistance program under chapter 685.</p> <p>2. The director shall take all appropriate measures to safeguard the protected health information, social security numbers, and other information of the individuals involved, which may be redacted or omitted as provided in rule of civil procedure 1.422. A provider shall not be included on the internet site until all administrative and judicial remedies relating to the violation have been exhausted.</p> <p> <b>History:</b> <a href="#">2013 Acts, ch 24, § 13</a>; <a href="#">2014 Acts, ch 1092, § 153</a>, 197, 199; 2015 H.F. 536, § 202, eff. July 1, 2015.</p> <p><b>Iowa Code § 249A.50 - Fraudulent practices -- investigations and audits -- Medicaid fraud fund.</b></p> <p>1. A person who obtains assistance or payments for medical assistance under this chapter by knowingly making or causing to be made, a false statement or a misrepresentation of a material fact or by knowingly failing to disclose a material fact required of an applicant for aid under the provisions of this chapter and a person who knowingly makes or causes to be made, a false statement or a misrepresentation of a material fact or knowingly fails to disclose a material fact concerning the applicant's eligibility for aid under this chapter commits a fraudulent practice.</p> <p>2. The department of inspections, appeals, and licensing shall conduct investigations and audits as deemed necessary to ensure compliance with the medical assistance program administered under this chapter. The department of inspections, appeals, and licensing shall cooperate with the department on the development of procedures relating to such investigations and audits to ensure compliance with federal and state single state agency requirements.</p> <p>3. a. A Medicaid fraud fund is created in the state treasury under the authority of the department of inspections, appeals, and licensing. Moneys from penalties, investigative costs recouped by the Medicaid fraud control unit, and other amounts received as a result of prosecutions involving the department of inspections, appeals, and licensing investigations and audits to ensure compliance with the medical assistance program that are not credited to the program shall be credited to the fund.</p> <p>b. Notwithstanding <a href="#">section 8.33</a>, moneys credited to the fund from any other account or fund shall not revert to the other account or fund. Moneys in the fund shall only be used as provided in appropriations from the fund and shall be used in accordance with applicable laws, regulations, and the policies of the office of inspector general of the United States department of health and human services.</p> <p>c. For the purposes of this subsection, “investigative costs” means the reasonable value of a Medicaid fraud control unit investigator's, auditor's or employee's time, any moneys expended by the Medicaid fraud control unit, and the reasonable fair market value of resources used or expended by the Medicaid fraud control unit in a case resulting in a criminal conviction of a provider under this chapter or chapter 714 or 715A.</p> <p><b>Credits</b></p> <p>Transferred from § 249A.7 by the Iowa Code Editor for Code 2014 pursuant to the directive in <a href="#">Acts 2013 (85 G.A.) ch. 24</a>, S.F. 357, § 14. Amended by <a href="#">Acts 2023 (90 G.A.) S.F. 514, §§ 812, 1962, 1963, eff. July 1, 2023</a>.</p> <hr/> <p><b>Iowa Code § 249A.51 - Fraudulent practice.</b></p> <p>A person who knowingly makes or causes to be made false statements or misrepresentations of material facts or knowingly fails to disclose material facts in application for payment of services or merchandise rendered or purportedly rendered by a provider participating in the medical assistance program under this chapter commits a fraudulent practice.</p> <p><b>History</b> - <a href="#">91 Acts, ch 107, § 12</a> <i>CS91</i>, <a href="#">§ 249A.8</a>; <a href="#">97 Acts, ch 56, § 4</a>; <a href="#">2013 Acts, ch 24, § 14</a>; <a href="#">C2014, § 249A.51</a>.</p> <hr/> <p><b>Iowa Code § 249A.52 - Garnishment.</b></p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>When payment is made by the department for medical care or expenses through the medical assistance program on behalf of a recipient, the department may garnish the wages, salary, or other compensation of the person obligated to pay child support or may withhold amounts pursuant to chapter 252D from the income of the person obligated to pay support, and shall withhold amounts from state income tax refunds of a person obligated to pay support, to the extent necessary to reimburse the department for expenditures for medical care or expenses on behalf of a recipient if all of the following conditions apply:</p> <ol style="list-style-type: none"><li>1. The person is required by court or administrative order to provide medical support to a recipient.</li><li>2. The person has received payment from a third party for the costs of medical assistance to the recipient and has not used the payments to reimburse the costs of medical care or expenses.</li></ol> <p><b>HISTORY:</b> 94 Acts, ch 1171, § 9 C95, § 249A.4A 2013 Acts, ch 24, § 14 C2014, § 249A.52</p> <hr/> <p><b><i>Iowa Code § 249A.53 - Recovery of payment.</i></b></p> <ol style="list-style-type: none"><li>1. Medical assistance paid to, or on behalf of, a recipient or paid to a provider of services is not recoverable, except as provided in subsection 2, unless the assistance was incorrectly paid. Assistance incorrectly paid is recoverable from the provider, or from the recipient, while living, as a debt due the state and, upon the recipient's death, as a claim classified with taxes having preference under the laws of this state.</li><li>2. The provision of medical assistance to an individual who is fifty-five years of age or older, or who is a resident of a nursing facility, intermediate care facility for persons with an intellectual disability, or mental health institute, who cannot reasonably be expected to be discharged and return to the individual's home, creates a debt due the department from the individual's estate for all medical assistance provided on the individual's behalf, upon the individual's death.<ol style="list-style-type: none"><li>a. The department shall waive the collection of the debt created under this subsection from the estate of a recipient of medical assistance to the extent that collection of the debt would result in either of the following:<ol style="list-style-type: none"><li>(1) Reduction in the amount received from the recipient's estate by a surviving spouse, or by a surviving child who was under age twenty-one, blind, or permanently and totally disabled at the time of the individual's death.</li><li>(2) Otherwise work an undue hardship as determined on the basis of criteria established pursuant to <a href="#">42 U.S.C. § 1396p(b)(3)</a>.</li></ol></li><li>b. If the collection of all or part of a debt is waived pursuant to subsection 2, paragraph “a”, to the extent the medical assistance recipient's estate was received by the following persons, the amount waived shall be a debt due from one of the following, as applicable:<ol style="list-style-type: none"><li>(1) The estate of the medical assistance recipient's surviving spouse or child who is blind or has a disability, upon the death of such spouse or child.</li><li>(2) A surviving child who was under twenty-one years of age at the time of the medical assistance recipient's death, upon the child reaching the age of twenty-one or from the estate of the child if the child dies prior to reaching the age of twenty-one.</li><li>(3) The estate of the recipient of the undue hardship waiver, at the time of death of the hardship waiver recipient, or from the hardship waiver recipient when the hardship no longer exists.</li></ol></li><li>c. For purposes of this section, the estate of a medical assistance recipient, surviving spouse, or surviving child includes any real property, personal property, or other asset in which the recipient, spouse, or child had any legal title or interest at the time of the recipient's, spouse's, or child's death, to the extent of such interests, including but not limited to interests in jointly held property, retained life estates, and interests in trusts.</li><li>d. For purposes of collection of a debt created by this subsection, all assets included in the estate of a medical assistance recipient, surviving spouse, or surviving child pursuant to paragraph “c” are subject to probate.</li><li>e. Interest shall accrue on a debt due under this subsection, at the rate provided pursuant to <a href="#">section 535.3</a>, beginning six months after the death of a medical assistance recipient, surviving spouse, or surviving child.</li><li>f. (1) If a debt is due under this subsection from the estate of a recipient, the administrator of the nursing facility, intermediate care facility for persons with an intellectual disability, or mental health institute in which the recipient resided at the time of the recipient's death, and the personal representative of the recipient, if applicable, shall report the death to the department within ten days of the death of the recipient.</li><li>(2) If a personal representative or executor of an estate makes a distribution either in whole or in part of the property of an estate to the heirs, next of kin, distributees, legatees, or devisees without having executed the obligations pursuant to <a href="#">section 633.425</a>, the personal representative or executor may be held personally liable for the amount of medical assistance paid on behalf of the recipient, to the full value of any property belonging to the estate which may have been in the custody or control of the personal representative or executor.</li><li>(3) For the purposes of this paragraph, “executor” means executor as defined in <a href="#">section 633.3</a>, and “personal representative” means a person who filed a medical assistance application on behalf of the recipient or who manages the financial affairs of the recipient.</li></ol></li><li>3. a. Following the death of an individual who is a designated beneficiary of an account established under a participation agreement pursuant to chapter 12I, all of the following shall apply to the extent permitted pursuant to chapter 12I and under federal law including <a href="#">section 529A of the Internal Revenue Code</a>:<ol style="list-style-type: none"><li>(1) The department shall not seek recovery of any account balance remaining in the designated beneficiary's account for medical assistance paid to or on behalf of the designated beneficiary on or after the date the participation agreement was entered into and the account established for the designated beneficiary.</li><li>(2) The department shall not file a claim for payment under <a href="#">section 529A(f) of the Internal Revenue Code</a>.</li><li>(3) Any account balance remaining in the designated beneficiary's account may be transferred to an account for another eligible individual specified by the designated beneficiary, or if another eligible beneficiary is not so designated, then the account balance shall be transferred to the estate of the designated beneficiary or to the successor as defined in <a href="#">section 633.356</a>.</li></ol></li><li>b. For the purposes of this section, “designated beneficiary”, “Internal Revenue Code”, and “participation agreement” mean the same as defined in <a href="#">section 121.1</a>.</li><li>c. For the purposes of this section, “eligible individual” means the same as defined in <a href="#">section 529A of the Internal Revenue Code</a>.</li></ol> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>Credits</b></p> <p>Transferred from § 249A.5 by the Iowa Code Editor for Code 2014 pursuant to the directive in <a href="#">Acts 2013 (85 G.A.) ch. 24</a>, S.F. 357, § 14. Amended by <a href="#">Acts 2021 (89 G.A.) ch. 136</a>, H.F. 835, § 7, eff. July 1, 2021.</p> <hr/> <p><b><i>Iowa Code § 249A.54 - Responsibility for payment on behalf of Medicaid-eligible persons--liability of other parties</i></b></p> <p>1. It is the intent of the general assembly that a Medicaid payor be the payor of last resort for medical services furnished to recipients. All other sources of payment for medical services are primary relative to medical assistance provided by the Medicaid payor. If benefits of a third party are discovered or become available after medical assistance has been provided by the Medicaid payor, it is the intent of the general assembly that the Medicaid payor be repaid in full and prior to any other person, program, or entity. The Medicaid payor shall be repaid in full from and to the extent of any third-party benefits, regardless of whether a recipient is made whole or other creditors are paid.</p> <p>2. For the purposes of this section:</p> <p>a. “Collateral” means all of the following:</p> <p>(1) Any and all causes of action, suits, claims, counterclaims, and demands that accrue to the recipient or to the recipient's agent, related to any covered injury or illness, or medical services that necessitated that the Medicaid payor provide medical assistance to the recipient.</p> <p>(2) All judgments, settlements, and settlement agreements rendered or entered into and related to such causes of action, suits, claims, counterclaims, demands, or judgments.</p> <p>(3) Proceeds.</p> <p>b. “Covered injury or illness” means any sickness, injury, disease, disability, deformity, abnormality disease, necessary medical care, pregnancy, or death for which a third party is, may be, could be, should be, or has been liable, and for which the Medicaid payor is, or may be, obligated to provide, or has provided, medical assistance.</p> <p>c. “Medicaid payor” means the department or any person, entity, or organization that is legally responsible by contract, statute, or agreement to pay claims for medical assistance including but not limited to managed care organizations and other entities that contract with the state to provide medical assistance under chapter 249A.</p> <p>d. “Medical service” means medical or medically related institutional or noninstitutional care, or a medical or medically related institutional or noninstitutional good, item, or service covered by Medicaid.</p> <p>e. “Payment” as it relates to third-party benefits, means performance of a duty, promise, or obligation, or discharge of a debt or liability, by the delivery, provision, or transfer of third-party benefits for medical services.</p> <p>“To pay” means to make payment.</p> <p>f. “Proceeds” means whatever is received upon the sale, exchange, collection, or other disposition of the collateral or proceeds from the collateral and includes insurance payable because of loss or damage to the collateral or proceeds. “Cash proceeds” include money, checks, and deposit accounts and similar proceeds. All other proceeds are “noncash proceeds”.</p> <p>g. “Recipient” means a person who has applied for medical assistance or who has received medical assistance.</p> <p>h. “Recipient's agent” includes a recipient's legal guardian, legal representative, or any other person acting on behalf of the recipient.</p> <p>i. “Third party” means an individual, entity, or program, excluding Medicaid, that is or may be liable to pay all or a part of the expenditures for medical assistance provided by a Medicaid payor to the recipient. A third party includes but is not limited to all of the following:</p> <p>(1) A third-party administrator.</p> <p>(2) A pharmacy benefits manager.</p> <p>(3) A health insurer.</p> <p>(4) A self-insured plan.</p> <p>(5) A group health plan, as defined in section 607(1) of the federal Employee Retirement Income Security Act of 1974.</p> <p>(6) A service benefit plan.</p> <p>(7) A managed care organization.</p> <p>(8) Liability insurance including self-insurance.</p> <p>(9) No-fault insurance.</p> <p>(10) Workers' compensation laws or plans.</p> <p>(11) Other parties that by law, contract, or agreement are legally responsible for payment of a claim for medical services.</p> <p>j. “Third-party benefits” mean any benefits that are or may be available to a recipient from a third party and that provide or pay for medical services. “Third-party benefits” may be created by law, contract, court award, judgment, settlement, agreement, or any arrangement between a third party and any person or entity, recipient, or otherwise. “Third-party benefits” include but are not limited to all of the following:</p> <p>(1) Benefits from collateral or proceeds.</p> <p>(2) Health insurance benefits.</p> <p>(3) Health maintenance organization benefits.</p> <p>(4) Benefits from preferred provider arrangements and prepaid health clinics.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(5) Benefits from liability insurance, uninsured and underinsured motorist insurance, or personal injury protection coverage.</p> <p>(6) Medical benefits under workers' compensation.</p> <p>(7) Benefits from any obligation under law or equity to provide medical support.</p> <p>3. Third-party benefits for medical services shall be primary to medical assistance provided by the Medicaid payor.</p> <p>4. a. A Medicaid payor has all of the rights, privileges, and responsibilities identified under this section. Each Medicaid payor is a Medicaid payor to the extent of the medical assistance provided by that Medicaid payor.</p> <p>Therefore, Medicaid payors may exercise their Medicaid payor's rights under this section concurrently.</p> <p>b. Notwithstanding the provisions of this subsection to the contrary, if the department determines that a Medicaid payor has not taken reasonable steps within a reasonable time to recover third-party benefits, the department may exercise all of the rights of the Medicaid payor under this section to the exclusion of the Medicaid payor. If the department determines the department will exercise such rights, the department shall give notice to third parties and to the Medicaid payor.</p> <p>5. A Medicaid payor may assign the Medicaid payor's rights under this section, including but not limited to an assignment to another Medicaid payor, a provider, or a contractor.</p> <p>6. After the Medicaid payor has provided medical assistance under the Medicaid program, the Medicaid payor shall seek reimbursement for third-party benefits to the extent of the Medicaid payor's legal liability and for the full amount of the third-party benefits, but not in excess of the amount of medical assistance provided by the Medicaid payor.</p> <p>7. On or before the thirtieth day following discovery by a recipient of potential third-party benefits, a recipient or the recipient's agent, as applicable, shall inform the Medicaid payor of any rights the recipient has to third-party benefits and of the name and address of any person that is or may be liable to provide third-party benefits.</p> <p>8. When the Medicaid payor provides or becomes liable for medical assistance, the Medicaid payor has the following rights which shall be construed together to provide the greatest recovery of third-party benefits:</p> <p>a. The Medicaid payor is automatically subrogated to any rights that a recipient or a recipient's agent or legally liable relative has to any third-party benefit for the full amount of medical assistance provided by the Medicaid payor. Recovery pursuant to these subrogation rights shall not be reduced, prorated, or applied to only a portion of a judgment, award, or settlement, but shall provide full recovery to the Medicaid payor from any and all third-party benefits. Equities of a recipient or a recipient's agent, creditor, or health care provider shall not defeat, reduce, or prorate recovery by the Medicaid payor as to the Medicaid payor's subrogation rights granted under this paragraph.</p> <p>b. By applying for, accepting, or accepting the benefit of medical assistance, a recipient or a recipient's agent or legally liable relative automatically assigns to the Medicaid payor any right, title, and interest such person has to any third-party benefit, excluding any Medicare benefit to the extent required to be excluded by federal law.</p> <p>(1) The assignment granted under this paragraph is absolute and vests legal and equitable title to any such right in the Medicaid payor, but not in excess of the amount of medical assistance provided by the Medicaid payor.</p> <p>(2) The Medicaid payor is a bona fide assignee for value in the assigned right, title, or interest and takes vested legal and equitable title free and clear of latent equities in a third party. Equities of a recipient or a recipient's agent, creditor, or health care provider shall not defeat or reduce recovery by the Medicaid payor as to the assignment granted under this paragraph.</p> <p>c. The Medicaid payor is entitled to and has an automatic lien upon the collateral for the full amount of medical assistance provided by the Medicaid payor to or on behalf of the recipient for medical services furnished as a result of any covered injury or illness for which a third party is or may be liable.</p> <p>(1) The lien attaches automatically when a recipient first receives medical services for which the Medicaid payor may be obligated to provide medical assistance.</p> <p>(2) The filing of the notice of lien with the clerk of the district court in the county in which the recipient's eligibility is established pursuant to this section shall be notice of the lien to all persons. Notice is effective as of the date of filing of the notice of lien.</p> <p>(3) If the Medicaid payor has actual knowledge that the recipient is represented by an attorney, the Medicaid payor shall provide the attorney with a copy of the notice of lien. However, this provision of a copy of the notice of lien to the recipient's attorney does not abrogate the attachment, perfection, and notice satisfaction requirements specified under subparagraphs (1) and (2).</p> <p>(4) Only one claim of lien need be filed to provide notice and shall provide sufficient notice as to any additional or after-paid amount of medical assistance provided by the Medicaid payor for any specific covered injury or illness. The Medicaid payor may, in the Medicaid payor's discretion, file additional, amended, or substitute notices of lien at any time after the initial filing until the Medicaid payor has been repaid the full amount of medical assistance provided by Medicaid or otherwise has released the liable parties and recipient.</p> <p>(5) A release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, or settlement agreement shall not be effective as against a lien created under this paragraph, unless the Medicaid payor joins in the release or satisfaction or executes a release of the lien. An acceptance of a release or satisfaction of any cause of action, suit, claim, counterclaim, demand, or judgment and any settlement of any of the foregoing in the absence of a release or satisfaction of a lien created under this paragraph shall prima facie constitute an impairment of the lien, and the Medicaid payor is entitled to recover damages on account of such impairment. In an action on account of impairment of a lien, the Medicaid payor may recover from the person accepting the release or satisfaction or the person making the settlement the full amount of medical assistance provided by the Medicaid payor.</p> <p>(6) The lack of a properly filed claim of lien shall not affect the Medicaid payor's assignment or subrogation rights provided in this subsection nor affect the existence of the lien, but shall only affect the effective date of notice.</p> <p>(7) The lien created by this paragraph is a first lien and superior to the liens and charges of any provider of a recipient's medical services. If the lien is recorded, the lien shall exist for a period of seven years after the date of recording. If the lien is not recorded, the lien shall exist for a period of seven years after the date of attachment. If recorded, the lien may be extended for one additional period of seven years by rerecording the claim of lien within the ninety-day period preceding the expiration of the lien.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>9. Except as otherwise provided in this section, the Medicaid payor shall recover the full amount of all medical assistance provided by the Medicaid payor on behalf of the recipient to the full extent of third-party benefits. The Medicaid payor may collect recovered benefits directly from any of the following:</p> <p>a. A third party.</p> <p>b. The recipient.</p> <p>c. The provider of a recipient's medical services if third-party benefits have been recovered by the provider. Notwithstanding any provision of this section to the contrary, a provider shall not be required to refund or pay to the Medicaid payor any amount in excess of the actual third-party benefits received by the provider from a third party for medical services provided to the recipient.</p> <p>d. Any person who has received the third-party benefits.</p> <p>10. a. A recipient and the recipient's agent shall cooperate in the Medicaid payor's recovery of the recipient's third-party benefits and in establishing paternity and support of a recipient child born out of wedlock. Such cooperation shall include but is not limited to all of the following:</p> <p>(1) Appearing at an office designated by the Medicaid payor to provide relevant information or evidence.</p> <p>(2) Appearing as a witness at a court proceeding or other legal or administrative proceeding.</p> <p>(3) Providing information or attesting to lack of information under penalty of perjury.</p> <p>(4) Paying to the Medicaid payor any third-party benefit received.</p> <p>(5) Taking any additional steps to assist in establishing paternity or securing third-party benefits, or both.</p> <p>b. Notwithstanding paragraph “a”, the Medicaid payor has the discretion to waive, in writing, the requirement of cooperation for good cause shown and as required by federal law.</p> <p>c. The department may deny or terminate eligibility for any recipient who refuses to cooperate as required under this subsection unless the department has waived cooperation as provided under this subsection.</p> <p>11. On or before the thirtieth day following the initiation of a formal or informal recovery, other than by filing a lawsuit, a recipient's attorney shall provide written notice of the activity or action to the Medicaid payor.</p> <p>12. A recipient is deemed to have authorized the Medicaid payor to obtain and release medical information and other records with respect to the recipient's medical services for the sole purpose of obtaining reimbursement for medical assistance provided by the Medicaid payor.</p> <p>13. a. To enforce the Medicaid payor's rights under this section, the Medicaid payor may, as a matter of right, institute, intervene in, or join in any legal or administrative proceeding in the Medicaid payor's own name, and in any or a combination of any, of the following capacities:</p> <p>(1) Individually.</p> <p>(2) As a subrogee of the recipient.</p> <p>(3) As an assignee of the recipient.</p> <p>(4) As a lienholder of the collateral.</p> <p>b. An action by the Medicaid payor to recover damages in an action in tort under this subsection, which action is derivative of the rights of the recipient, shall not constitute a waiver of sovereign immunity.</p> <p>c. A Medicaid payor, other than the department, shall obtain the written consent of the department before the Medicaid payor files a derivative legal action on behalf of a recipient.</p> <p>d. When a Medicaid payor brings a derivative legal action on behalf of a recipient, the Medicaid payor shall provide written notice no later than thirty days after filing the action to the recipient, the recipient's agent, and, if the Medicaid payor has actual knowledge that the recipient is represented by an attorney, to the attorney of the recipient, as applicable.</p> <p>e. If the recipient or a recipient's agent brings an action against a third party, on or before the thirtieth day following the filing of the action, the recipient, the recipient's agent, or the attorney of the recipient or the recipient's agent, as applicable, shall provide written notice to the Medicaid payor of the action, including the name of the court in which the action is brought, the case number of the action, and a copy of the pleadings. The recipient, the recipient's agent, or the attorney of the recipient or the recipient's agent, as applicable, shall provide written notice of intent to dismiss the action at least twenty-one days before the voluntary dismissal of an action against a third party. Notice to the Medicaid payor shall be sent as specified by rule.</p> <p>14. On or before the thirtieth day before the recipient finalizes a judgment, award, settlement, or any other recovery where the Medicaid payor has the right to recovery, the recipient, the recipient's agent, or the attorney of the recipient or recipient's agent, as applicable, shall give the Medicaid payor notice of the judgment, award, settlement, or recovery. The judgment, award, settlement, or recovery shall not be finalized unless such notice is provided and the Medicaid payor has had a reasonable opportunity to recover under the Medicaid payor's rights to subrogation, assignment, and lien. If the Medicaid payor is not given notice, the recipient, the recipient's agent, and the recipient's or recipient's agent's attorney are jointly and severally liable to reimburse the Medicaid payor for the recovery received to the extent of medical assistance paid by the Medicaid payor. The notice required under this subsection means written notice sent via certified mail to the address listed on the department's internet site for a Medicaid payor's third-party liability contact. The notice requirement is only satisfied for the specific Medicaid payor upon receipt by the specific Medicaid payor's third-party liability contact of such written notice sent via certified mail.</p> <p>15. a. Except as otherwise provided in this section, the entire amount of any settlement of the recipient's action or claim involving third-party benefits, with or without suit, is subject to the Medicaid payor's claim for reimbursement of the amount of medical assistance provided and any lien pursuant to the claim.</p> <p>b. Insurance and other third-party benefits shall not contain any term or provision which purports to limit or exclude payment or the provision of benefits for an individual if the individual is eligible for, or a recipient of, medical assistance, and any such term or provision shall be void as against public policy.</p> <p>16. In an action in tort against a third party in which the recipient is a party and which results in a judgment, award, or settlement from a third party, the amount recovered shall be distributed as follows:</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>a. After deduction of reasonable attorney fees, reasonably necessary legal expenses, and filing fees, there is a rebuttable presumption that all Medicaid payors shall collectively receive two-thirds of the remaining amount recovered or the total amount of medical assistance provided by the Medicaid payors, whichever is less. A party may rebut this presumption in accordance with subsection 17.</p> <p>b. The remaining recovered amount shall be paid to the recipient.</p> <p>c. If the recovered amount available for the repayment of medical assistance is insufficient to satisfy the competing claims of the Medicaid payors, each Medicaid payor shall be entitled to the Medicaid payor's respective pro rata share of the recovered amount that is available.</p> <p>17. a. A recipient or a recipient's agent who has notice or who has actual knowledge of the Medicaid payor's rights to third-party benefits under this section and who receives any third-party benefit or proceeds for a covered injury or illness shall on or before the sixtieth day after receipt of the proceeds pay the Medicaid payor the full amount of the third-party benefits, but not more than the total medical assistance provided by the Medicaid payor, or shall place the full amount of the third-party benefits in an interest-bearing trust account for the benefit of the Medicaid payor pending a determination of the Medicaid payor's rights to the benefits under this subsection.</p> <p>b. If federal law limits the Medicaid payor to reimbursement from the recovered damages for medical expenses, a recipient may contest the amount designated as recovered damages for medical expenses payable to the Medicaid payor pursuant to the formula specified in subsection 16. In order to successfully rebut the formula specified in subsection 16, the recipient shall prove, by clear and convincing evidence, that the portion of the total recovery which should be allocated as medical expenses, including future medical expenses, is less than the amount calculated by the Medicaid payor pursuant to the formula specified in subsection 16. Alternatively, to successfully rebut the formula specified in subsection 16, the recipient shall prove, by clear and convincing evidence, that Medicaid provided a lesser amount of medical assistance than that asserted by the Medicaid payor. A settlement agreement that designates the amount of recovered damages for medical expenses is not clear and convincing evidence and is not sufficient to establish the recipient's burden of proof, unless the Medicaid payor is a party to the settlement agreement.</p> <p>c. If the recipient or the recipient's agent filed a legal action to recover against the third party, the court in which such action was filed shall resolve any dispute concerning the amount owed to the Medicaid payor, and shall retain jurisdiction of the case to resolve the amount of the lien after the dismissal of the action.</p> <p>d. If the recipient or the recipient's agent did not file a legal action, to resolve any dispute concerning the amount owed to the Medicaid payor, the recipient or the recipient's agent shall file a petition for declaratory judgment as permitted under <a href="#">rule of civil procedure 1.1101</a> on or before the one hundred twenty-first day after the date of payment of funds to the Medicaid payor or the date of placing the full amount of the third-party benefits in a trust account. Venue for all declaratory actions under this subsection shall lie in Polk county.</p> <p>e. If a Medicaid payor and the recipient or the recipient's agent disagree as to whether a medical claim is related to a covered injury or illness, the Medicaid payor and the recipient or the recipient's agent shall attempt to work cooperatively to resolve the disagreement before seeking resolution by the court.</p> <p>f. Each party shall pay the party's own attorney fees and costs for any legal action conducted under this subsection.</p> <p>18. Notwithstanding any other provision of law to the contrary, when medical assistance is provided for a minor, any statute of limitation or repose applicable to an action or claim of a legally responsible relative for the minor's medical expenses is extended in favor of the legally responsible relative so that the legally responsible relative shall have one year from and after the attainment of the minor's majority within which to file a complaint, make a claim, or commence an action.</p> <p>19. In recovering any payments in accordance with this section, the Medicaid payor may make appropriate settlements.</p> <p>20. If a recipient or a recipient's agent submits via notice a request that the Medicaid payor provide an itemization of medical assistance paid for any covered injury or illness, the Medicaid payor shall provide the itemization on or before the sixty-fifth day following the day on which the Medicaid payor received the request. Failure to provide the itemization within the specified time shall not bar a Medicaid payor's recovery, unless the itemization response is delinquent for more than one hundred twenty days without justifiable cause. A Medicaid payor shall not be under any obligation to provide a final itemization until a reasonable period of time after the processing of payment in relation to the recipient's receipt of final medical services. A Medicaid payor shall not be under any obligation to respond to more than one itemization request in any one-hundred-twenty-day period. The notice required under this subsection means written notice sent via certified mail to the address listed on the department's internet site for a Medicaid payor's third-party liability contact. The notice requirement is only satisfied for the specific Medicaid payor upon receipt by the specific Medicaid payor's third-party liability contact of such written notice sent via certified mail.</p> <p>21. The department may adopt rules to administer this section and applicable federal requirements.</p> <p>Credits</p> <p>Transferred from § 249A.6 by the Iowa Code Editor for Code 2014 pursuant to the directive in <a href="#">Acts 2013 (85 G.A.) ch. 24</a>, S.F. 357, § 14. Amended by <a href="#">Acts 2023 (90 G.A.) H.F. 685, § 2, eff. July 1, 2023</a>.</p> <p><b><i>Iowa Code § 249A.55 - Restitution.</i></b></p> <p>If restitution is ordered by the court pursuant to section 910.2, and the victim is a recipient of medical assistance for whom expenditures were made as a result of the offender's criminal activities, restitution may be made to the medical assistance program in accordance with section 910.2.</p> <p><b>HISTORY:</b> 2010 Acts, ch 1093, § 1 C2011, § 249A.6A 2013 Acts, ch 24, § 14 C2014, § 249A.55</p> <p><b><i>Iowa Code § 249A.57 - Health care facilities -- penalty.</i></b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>The department shall adopt rules pursuant to chapter 17A to assess and collect, with interest, a civil penalty for each day a health care facility which receives medical assistance reimbursements does not comply with the requirements of the federal Social Security Act, section 1919, as codified in <i>42 U.S.C. § 1396r</i>: A civil penalty shall not exceed the amount authorized under <i>42 C.F.R. § 488.438</i> for health care facility violations. Any moneys collected by the department pursuant to this section shall be applied to the protection of the health or property of the residents of the health care facilities which are determined by the state or by the federal centers for Medicare and Medicaid services to be out of compliance. The purposes for which the collected moneys shall be applied may include payment for the costs of relocation of residents to other facilities, maintenance or operation of a health care facility pending correction of deficiencies or closure of the facility, and reimbursing residents for personal funds lost. If a health care facility is assessed a civil penalty under this section, the health care facility shall not be assessed a penalty under section 135C.36 for the same violation.</p> <p><b>HISTORY:</b> 90 Acts, ch 1031, § 1 C91, § 249A.19 96 Acts, ch 1107, § 2; 2002 Acts, ch 1050, § 24; 2013 Acts, ch 24, § 14 C2014, § 249A.57</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                 | Qui Tam Actions & Remedies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           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|                 | <p><b>Iowa Code § 685.3 - Investigations and prosecutions--powers of prosecuting authority--civil actions by individuals as qui tam plaintiffs and as private citizens--jurisdiction of courts</b></p> <p>1. The attorney general shall diligently investigate a violation under <a href="#">section 685.2</a>. If the attorney general finds that a person has violated or is violating <a href="#">section 685.2</a>, the attorney general may bring a civil action under this section against that person.</p> <p>2. a. A person may bring a civil action for a violation of this chapter for the person and for the state, in the name of the state. The person bringing the action shall be referred to as the qui tam plaintiff. Once filed, the action may be dismissed only if the court and the attorney general provide written consent to the dismissal and the reasons for such consent.</p> <p>b. 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 pursuant to the Iowa rules of civil procedure. The complaint shall also 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 the state receives both the complaint and the material evidence and the information.</p> <p>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”. 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 pursuant to rule 1.302 of the Iowa rules of civil procedure.</p> <p>d. Before the expiration of the sixty-day period or any extensions obtained under paragraph “c”, the state shall do one of the following:</p> <p>(1) Proceed with the action, in which case the action shall be conducted by the state.</p> <p>(2) Notify the court that the state declines to take over the action, in which case the qui tam plaintiff shall have the right to conduct the action.</p> <p>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.</p> <p>3. a. If the state proceeds with the action, the state shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the qui tam plaintiff. Such qui tam plaintiff shall have the right to continue as a party to the action, subject to the limitations specified in paragraph “b”.</p> <p>b. (1) The state may move to dismiss the action, notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified by the state of the filing of the motion and the court has provided the qui tam plaintiff with an opportunity for a hearing on the motion.</p> <p>(2) The state may settle the action with the defendant notwithstanding the objections of the qui tam plaintiff if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all of the circumstances. Upon a showing of good cause, such hearing may be held in camera.</p> <p>(3) Upon a showing by the state that unrestricted participation during the course of the litigation by the qui tam plaintiff 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 qui tam plaintiff's participation, including but not limited to any of the following:</p> <p>(a) Limiting the number of witnesses the qui tam plaintiff may call.</p> <p>(b) Limiting the length of the testimony of such witnesses.</p> <p>(c) Limiting the qui tam plaintiff's cross-examination of witnesses.</p> <p>(d) Otherwise limiting the participation by the qui tam plaintiff in the litigation.</p> <p>(4) Upon a showing by the defendant that unrestricted participation during the course of the 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.</p> <p>c. If the state elects not to proceed with the action, the qui tam plaintiff shall have the right to conduct the action. If the state so requests, the state 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 qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may permit the state to intervene at a later date upon a showing of good cause.</p> <p>d. Whether or not the state proceeds with the action, upon a showing by the state that certain actions of discovery by the qui tam plaintiff 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 sixty days. Such a showing shall be conducted in camera. The court may extend the sixty-day period upon a further</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>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.</p> <p>e. Notwithstanding subsection 2, the state may elect to pursue the state's claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil penalty. If any such alternate remedy is pursued in another proceeding, the qui tam plaintiff shall have the same rights in such proceeding as such qui tam plaintiff 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 as to all such parties to an action under this section. For purposes of this paragraph, 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.</p> <p>4. a. (1) If the state proceeds with an action brought by a qui tam plaintiff under subsection 2, the qui tam plaintiff shall, subject to subparagraph (2), 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 qui tam plaintiff substantially contributed to the prosecution of the action.</p> <p>(2) If the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the qui tam plaintiff, relating to allegations or transactions in a criminal, civil, or administrative hearing, or in a legislative, administrative or state auditor report, hearing, audit, or investigation, or from the news media, the court may award an amount the court 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 qui tam plaintiff in advancing the case to litigation.</p> <p>(3) Any payment to a qui tam plaintiff under subparagraph (1) or (2) shall be made from the proceeds. Any such qui tam plaintiff shall also receive an amount for reasonable expenses which the appropriate 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.</p> <p>b. If the state does not proceed with an action under this section, the qui tam plaintiff or person 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 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. Such qui tam plaintiff or person shall also receive an amount for reasonable expenses which 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.</p> <p>c. Whether or not the state proceeds with the action, if the court finds that the action was brought by a qui tam plaintiff who planned and initiated the violation of <a href="#">section 685.2</a> 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 which the qui tam plaintiff would otherwise receive under paragraph “a” or “b”, taking into account the role of that qui tam plaintiff in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the qui tam plaintiff is convicted of criminal conduct arising from the qui tam plaintiff's role in the violation of <a href="#">section 685.2</a>, the qui tam plaintiff 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.</p> <p>d. If the state does not proceed with the action and the qui tam plaintiff conducts 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 qui tam plaintiff was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.</p> <p>5. a. A court shall not have jurisdiction over an action brought by a former or present member of the Iowa national guard under this chapter against a member of the Iowa national guard arising out of such person's services in the Iowa national guard.</p> <p>b. A qui tam plaintiff shall not bring an action under subsection 2 which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil penalty proceeding in which the state is already a party.</p> <p>c. A 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 in a state criminal, civil, or administrative hearing in which the state or an agent of the state is a party; in a state legislative, state auditor, or other state report, hearing, audit, or investigation; or by the news media, unless the action is brought by the attorney general or the qui tam plaintiff is an original source of the information.</p> <p>d. The state is not liable for expenses which a person incurs in bringing an action under this section.</p> <p>6. a. 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 or associated others in furtherance of an action under this section or other efforts to stop one or more violations of this chapter.</p> <p>b. Relief under paragraph “a” shall include reinstatement with the same seniority status that 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 under this subsection may be brought in the appropriate district court of the state for the relief provided in this subsection.</p> <p>c. A civil action under this subsection shall not be brought more than three years after the date when the retaliation occurred.</p> <p><b>Credits</b></p> <p>Added by <a href="#">Acts 2010 (83 G.A.) ch. 1031</a>, S.F. 2088, § 340. Amended by <a href="#">Acts 2011 (84 G.A.) ch. 122</a>, H.F. 649, §§ 103, 104, eff. July 26, 2011, retroactive to July 1, 2011.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p><b>Iowa Code § 685.4 Procedure -- statute of limitations.</b></p> <p>1. A subpoena requiring the attendance of a witness at a trial or hearing conducted under this chapter may be served at any place in the state, or through any means authorized in the Iowa rules of civil procedure.</p> <p>2. A civil action under this chapter may not be brought more than six years after the date on which the violation of <a href="#">section 685.2</a> is committed, or 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 state charged with responsibility to act in the circumstances, but in no event more than ten years after the date on which the violation is committed, whichever occurs last.</p> <p>3. If the state elects to intervene and proceed with an action brought under this chapter, the state may file its own complaint or amend the complaint of a qui tam plaintiff 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 qui tam plaintiff 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.</p> <p>4. In any action brought under <a href="#">section 685.3</a>, the state shall prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.</p> <p>5. Notwithstanding any other provision of law, the Iowa rules of criminal procedure, or the Iowa rules of evidence, a final judgment rendered in favor of the state 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 <a href="#">section 685.3</a>.</p> <p><b>Credits</b><br/>Added by <a href="#">Acts 2010 (83 G.A.) ch. 1031</a>, S.F. 2088, § 341.</p> <p><b>Iowa Code § 685.5 Jurisdiction.</b></p> <p>1. Any action under <a href="#">section 685.3</a> may be brought in any county 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 <a href="#">section 685.2</a> occurred. An original notice as required by the Iowa rules of civil procedure shall be issued by the appropriate district court and served in accordance with the Iowa rules of civil procedure.</p> <p>2. A seal on the action ordered by the court under <a href="#">section 685.3</a> shall not preclude the state, local government, or the qui tam plaintiff from serving the complaint, any other pleadings, or the written disclosure of substantially all material evidence and information possessed by the qui tam plaintiff on the law enforcement authorities that are authorized under the law of the 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.</p> <p><b>Credits</b><br/>Added by <a href="#">Acts 2010 (83 G.A.) ch. 1031</a>, S.F. 2088, § 342.</p> |
|                 | <p><b>Whistle-blower Protections</b></p> <p><b>Iowa Code § 685.3 Investigations and prosecutions -- powers of prosecuting authority -- civil actions by individuals as qui tam plaintiffs and as private citizens -- jurisdiction of courts.</b></p> <p>6. a. 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 or associated others in furtherance of an action under this section or other efforts to stop one or more violations of this chapter.</p> <p>b. Relief under paragraph “a” shall include reinstatement with the same seniority status that 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 under this subsection may be brought in the appropriate district court of the state for the relief provided in this subsection.</p> <p>c. A civil action under this subsection shall not be brought more than three years after the date when the retaliation occurred.</p> <p><b>Credits</b><br/>Added by <a href="#">Acts 2010 (83 G.A.) ch. 1031</a>, S.F. 2088, § 340. Amended by <a href="#">Acts 2011 (84 G.A.) ch. 129</a>, H.F. 649, §§ 103, 104, eff. July 26, 2011, retroactive to July 1, 2011.</p> <p><b>Iowa Code §70A.28 - Prohibitions relating to certain actions by state employees -- penalty -- civil remedies.</b></p> <p>1. A person who serves as the head of a state department or agency or otherwise serves in a supervisory capacity within the executive or legislative branch of state government shall not require an employee of the state to inform the person that the employee made a disclosure of information permitted by this section and shall not prohibit an employee of the state from disclosing any information to a member or employee of the general</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |




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|                 | <p>assembly or from disclosing information to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. However, an employee may be required to inform the person that the employee made a disclosure of information permitted by this section if the employee represented that the disclosure was the official position of the employee's immediate supervisor or employer.</p> <p>2. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for a failure by that employee to inform the person that the employee made a disclosure of information permitted by this section, or for a disclosure of any information by that employee to a member or employee of the general assembly, a disclosure of information to the office of ombudsman, a disclosure of information to a person providing human resource management for the state, or a disclosure of information to any other public official or law enforcement agency if the employee, in good faith, reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. However, an employee may be required to inform the person that the employee made a disclosure of information permitted by this section if the employee represented that the disclosure was the official position of the employee's immediate supervisor or employer.</p> <p>3. Subsections 1 and 2 do not apply if the disclosure of the information is prohibited by statute.</p> <p>4. A person who violates subsection 1 or 2 commits a simple misdemeanor.</p> <p>5. Subsection 2 may be enforced through a civil action.</p> <p>a. A person who violates subsection 2 is liable to an aggrieved employee for affirmative relief including reinstatement, with or without back pay, civil damages in an amount not to exceed three times the annual wages and benefits received by the aggrieved employee prior to the violation of subsection 2, and any other equitable relief the court deems appropriate, including attorney fees and costs.</p> <p>b. When a person commits, is committing, or proposes to commit an act in violation of subsection 2, an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee, the attorney general, or a person providing human resource management for the state.</p> <p>6. Subsection 2 may also be enforced by an employee through an administrative action pursuant to the requirements of this subsection if the employee is not a merit system employee or an employee covered by a collective bargaining agreement. An employee eligible to pursue an administrative action pursuant to this subsection who is discharged, suspended, demoted, or otherwise receives a reduction in pay and who believes the adverse employment action was taken as a result of the employee's disclosure of information that was authorized pursuant to subsection 2, may file an appeal of the adverse employment action with the public employment relations board within thirty calendar days following the later of the effective date of the action or the date a finding is issued to the employee by the office of ombudsman pursuant to <a href="#">section 2C.11.4</a>. The findings issued by the ombudsman may be introduced as evidence before the public employment relations board. The employee has the right to a hearing closed to the public, but may request a public hearing. The hearing shall otherwise be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act, chapter 17A. If the public employment relations board finds that the action taken in regard to the employee was in violation of subsection 2, the employee may be reinstated without loss of pay or benefits for the elapsed period, or the public employment relations board may provide other appropriate remedies. Decisions by the public employment relations board constitute final agency action.</p> <p>7. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for the employee's declining to participate in contributions or donations to charities or community organizations.</p> <p>8. The director of the department of administrative services or, for employees of the general assembly or of the state board of regents, the legislative council or the state board of regents, respectively, shall provide procedures for notifying new state employees of the provisions of this section and shall periodically conduct promotional campaigns to provide similar information to state employees. The information shall include the toll-free telephone number of the ombudsman.</p> <p>9. For purposes of this section, “state employee” and “employee” include, but are not limited to, persons employed by the general assembly and persons employed by the state board of regents.</p> <p><b>Credits</b></p> <p>Transferred from § 79.28 by the Code Editor for Code 1993. Amended by <a href="#">Acts 1996 (76 G.A.) ch. 1100, §§ 2 to 5</a>; <a href="#">Acts 2003 (80 G.A.) ch. 145, § 286</a>; <a href="#">Acts 2006 (81 G.A.) ch. 1153</a>, S.F. 2410, §§ 14, 15; <a href="#">Acts 2007 (82 G.A.) ch. 126</a>, S.F. 333, § 18; <a href="#">Acts 2013 (85 G.A.) ch. 10</a>, H.F. 185, § 28; <a href="#">Acts 2013 (85 G.A.) ch. 140</a>, S.F. 452, § 55; <a href="#">Acts 2019 (88 G.A.) ch. 109</a>, S.F. 502, § 1, eff. July 1, 2019.</p> <p><b>Iowa Code § 88.9</b></p> <p><b>Discrimination and discharge.</b></p> <p>1. Aggrieved persons.</p> <p>a. Judicial review of any order of the appeal board issued under section 88.8, subsection 3, may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, petitions for judicial review may be filed in the district court of the county in which the violation is alleged to have occurred or where the employer has its principal office and may be filed within sixty days following the issuance of such order. The appeal board's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the appeal board's orders.</p> <p>b. The commissioner may obtain judicial review or enforcement of any final order or decision of the appeal board by filing a petition in the district court of the county in which the alleged violation occurred or in which the employer has its principal office. The judicial review provisions of chapter 17A shall govern such proceedings to the extent applicable.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>c. Notwithstanding section 10A.601, subsection 7, and chapter 17A, the commissioner has the exclusive right to represent the appeal board in any judicial review of an appeal board decision under this chapter in which the commissioner does not appeal the appeal board decision, except as provided by section 88.17.</p> <p>2. Uncontested appeal board orders. If no petition for judicial review is filed within sixty days after service of the appeal board's order, the appeal board's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of such sixty-day period. In any such case, as well as in the case of a noncontested citation or notification by the commissioner which has become a final order of the appeal board under section 88.8, subsection 1 or 2, the clerk of the district court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the appeal board and the employer named in the petition. In any contempt proceeding brought to enforce a decree of a district court entered pursuant to this subsection or subsection 1, the district court may assess the penalties provided in section 88.14 in addition to invoking any other available remedies.</p> <p>3. Discrimination and discharge.</p> <p>a. (1) A person shall not discharge or in any manner discriminate against an employee because the employee has filed a complaint or instituted or caused to be instituted a proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by the employee on behalf of the employee or others of a right afforded by this chapter.</p> <p>(2) A person shall not discharge or in any manner discriminate against an employee because the employee, who with no reasonable alternative, refuses in good faith to expose the employee's self to a dangerous condition of a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury; provided the employee, where possible, has first sought through resort to regular statutory enforcement channels, unless there has been insufficient time due to the urgency of the situation, or the employee has sought and been unable to obtain from the person, a correction of the dangerous condition.</p> <p>b. (1) An employee who believes that the employee has been discharged or otherwise discriminated against by a person in violation of this subsection may, within thirty days after the violation occurs, file a complaint with the commissioner alleging discrimination.</p> <p>(2) Upon receipt of the complaint, the commissioner shall conduct an investigation as the commissioner deems appropriate. If, upon investigation, the commissioner determines that the provisions of this subsection have been violated, the commissioner shall bring an action in the appropriate district court against the person. In any such action, the district court has jurisdiction to restrain violations of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to the employee's former position with back pay.</p> <p>(3) Within ninety days of the receipt of a complaint filed under this subsection, the commissioner shall notify the complainant of the commissioner's determination under this subsection.</p> <p>📌<b>History:</b> [C66, 71, § 88A.16; C73, 75, 77, 79, 81, § 88.9] 88 Acts, ch 1107, § 1; <a href="#">93 Acts, ch 180, § 56</a>, 57; <a href="#">2003 Acts, ch 44, § 114</a>; <a href="#">2008 Acts, ch 1032, § 174</a></p> <p>Iowa Code § 88.3 - <b>Iowa Code 88.3 Definitions.</b></p> <p>Wherever used in this chapter, unless the context clearly requires a different meaning:</p> <p>1. “Appeal board” means the employment appeal board created under <a href="#">section 10A.601</a>.</p> <p>2. “Commissioner” means the labor commissioner appointed pursuant to <a href="#">section 91.2</a>, or the commissioner's designee.</p> <p>3. “Emergency temporary standards” means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the commissioner that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, and was formulated in a manner which afforded an opportunity for diverse views to be considered or is an emergency temporary standard provided by the secretary pursuant to and in conformance with the provisions of the federal law.</p> <p>4. “Employee” means an employee of an employer who is employed in a business of the employer. “Employee” also means an inmate as defined in <a href="#">section 85.59</a>, when the inmate works in connection with the maintenance of the institution, in an industry maintained in the institution, or while otherwise on detail to perform services for pay. “Employee” also means a volunteer involved in responses to hazardous waste incidences. The employer of a volunteer is that entity which provides or which is required to provide workers' compensation coverage for the volunteer.</p> <p>5. “Employer” means a person engaged in a business who has one or more employees and also includes the state of Iowa, its various departments and agencies, and any political subdivision of the state.</p> <p>6. “Federal law” means the Act of Congress approved December 29, 1970, 84 Stat. 1590, officially cited as the “Occupational Safety and Health Act of 1970”, codified at <a href="#">29 U.S.C. § 651-678</a>.</p> |

| State /Citation                                                                                                                                                                                          | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                                                                                                                                                                                                          | <p>7. “Imminent danger” means a condition or practice in any place of employment which is such that a danger exists which will reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures of this chapter, exclusive of the procedures set forth in <a href="#">section 88.11</a>.</p> <p>8. “Occupational safety and health standard” means a standard which requires conditions or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.</p> <p>9. “Person” means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.</p> <p>10. “Secretary” means the secretary of labor of the United States.</p> <p><b>Credits</b><br/>Acts 1972 (64 G.A.) ch. 1028, § 4. Amended by Acts 1978 (67 G.A.) ch. 1036, § 6, eff. Jan. 1, 1979; Acts 1986 (71 G.A.) ch. 1245, § 520; <a href="#">Acts 1990 (73 G.A.) ch. 1136, § 1</a>; <a href="#">Acts 1999 (78 G.A.) ch. 68, § 2</a>; <a href="#">Acts 2001 (79 G.A.) ch. 24, § 24</a>; <a href="#">Acts 2019 (88 G.A.) ch. 24</a>, S.F. 333, § 13, eff. July 1, 2019.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><u>Kansas</u><br/>K.S.A. § 21-5925 to 21-5934</p> <p>K.S.A. § 75-725<br/>K.S.A. § 75-726</p> <p>K.S.A. § 21-4503a</p> <p>K.S.A. § 75-2973</p> <p>K.S.A. § 75-7501 et seq.</p> <p>K.A.R. § 30-5-60</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><i>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</i><br/><a href="https://www.kdhe.ks.gov/172/Medicaid">https://www.kdhe.ks.gov/172/Medicaid</a><br/><a href="https://ag.ks.gov/fraud-abuse/false-claims">https://ag.ks.gov/fraud-abuse/false-claims</a><br/><a href="https://ag.ks.gov/fraud-abuse/medicaid-inspector-general">https://ag.ks.gov/fraud-abuse/medicaid-inspector-general</a></p> <p><i>State Bulletin/Notice - August 2007 Provider Bulletin #797</i><br/><b>Deficit Reduction Act of 2005 Section 6032</b><br/><a href="https://www.kdhe.ks.gov/DocumentCenter/View/244/Section-6032-of-the-Deficit-Reduction-Act-PDF?bidId=">https://www.kdhe.ks.gov/DocumentCenter/View/244/Section-6032-of-the-Deficit-Reduction-Act-PDF?bidId=</a></p> <p><b>Kansas False Claims Act @ <a href="http://ag.ks.gov/fraud-abuse/false-claims">http://ag.ks.gov/fraud-abuse/false-claims</a></b><br/><a href="http://kslegislature.org/li/b2021_22/statute/075_000_0000_chapter/075_075_0000_article/075_075_0002_section/075_075_0002_k/">http://kslegislature.org/li/b2021_22/statute/075_000_0000_chapter/075_075_0000_article/075_075_0002_section/075_075_0002_k/</a></p> <p><b>K.S.A. § 21-5925 - Kansas medicaid fraud control act; citation.</b><br/><a href="http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0025_section/021_059_0025_k/">http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0025_section/021_059_0025_k/</a><br/><a href="#">K.S.A. 2011 Supp. 21-5925</a> through <a href="#">21-5934</a> and <a href="#">K.S.A. 2011 Supp. 75-725</a> and 75-726, and amendments thereto, shall be known and may be cited as the Kansas medicaid fraud control act.<br/><b>History:</b> <a href="#">L. 2010, ch. 136, § 150</a>; July 1, 2011.</p> <p><b><a href="#">Chapter 40. Insurance</a></b></p> <p><b><a href="#">Article 1. Insurance Department</a></b></p> <p><b>K.S.A. § 40-113 - Criminal anti-fraud division; powers and duties.</b><br/><b>(a)</b> There is hereby established within the insurance department a criminal anti-fraud division of the Kansas insurance department. The criminal anti-fraud division shall accept information and complaints regarding possible insurance fraud. The criminal anti-fraud division shall also investigate possible violations of Kansas criminal statutes pertaining to and related to insurance fraud. The criminal anti-fraud division shall prepare and refer criminal cases to the attorney general, or in consultation with the attorney general to the proper county or district attorney, who may, in such prosecutor’s discretion, with or without such a reference, institute the appropriate criminal proceedings under the laws of this state. The commissioner may pay extradition and witness expenses and other costs associated with the case.<br/><b>(b)</b> Complaints of insurance fraud shall be accepted from Kansas consumers, other divisions within the insurance department, other state and federal law enforcement agencies, and insurance companies. The criminal anti-fraud division’s investigators shall prepare clear and concise reports concerning investigations and preserve evidence.<br/><b>(c)</b> The criminal anti-fraud division shall assist in the preparation and presentation of criminal cases as requested by the attorney general or county or district attorney. The criminal anti-fraud division shall perform other such duties in the prevention, detection, investigation and prosecution of insurance fraud as may be necessary. Such preparation may include affidavits, interviews, preservation of evidence and securing the attendance of individuals involved in the case. In presenting the prosecution’s case, members of the criminal anti-fraud division may testify as to the facts of the case.<br/><b>History - <a href="#">L. 2007, ch. 146, § 1</a>; July 1; <a href="#">L. 2017, ch. 81, § 6</a>; July 1, 2017.</b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>K.S.A. § 21-5926 - Definitions.</b><br/><a href="http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0026_section/021_059_0026_k/">http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0026_section/021_059_0026_k/</a><br/>As used in the Kansas Medicaid Fraud Control Act:</p> <p><b>(a)</b> "Aggregate amount of payments illegally claimed" means the greater of: (1) The actual pecuniary harm resulting from the offense; (2) the pecuniary harm that was intended to result from the offense; or (3) the intended pecuniary harm that would have been impossible or unlikely to occur, such as in a government sting operation or a fraud in which the claim exceeded the allowed value. The aggregate dollar amount of fraudulent claims submitted to the medicaid program shall constitute prima facie evidence of the amount of intended loss and is sufficient to establish the aggregate amount of payments illegally claimed, if not rebutted;</p> <p><b>(b)</b> "attorney general" means the attorney general, employees of the attorney general or authorized representatives of the attorney general;</p> <p><b>(c)</b> "benefit" means the receipt of money, goods, items, facilities, accommodations or anything of pecuniary value;</p> <p><b>(d)</b> "claim" means an electronic, electronic impulse, facsimile, magnetic, oral, telephonic or written communication that is utilized to identify any goods, service, item, facility or accommodation as reimbursable to the medicaid program, or its fiscal agents, or which states income or expense and is or may be used to determine a rate of payment by the medicaid program, or its fiscal agent;</p> <p><b>(e)</b> "fiscal agent" means any corporation, firm, individual, organization, partnership, professional association or other legal entity which, through a contractual relationship with the Kansas department of health and environment division of health care finance and thereby, the state of Kansas, receives, processes and pays claims under the medicaid program;</p> <p><b>(f)</b> "family member" means spouse, child, grandchild of any degree, parent, mother-in-law, father-in-law, grandparent of any degree, brother, brother-in-law, sister, sister-in-law, half-brother, half-sister, uncle, aunt, nephew or niece, whether biological, step or adoptive;</p> <p><b>(g)</b> "medicaid program" means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended as administered by the Kansas department of health and environment division of health care finance, or its fiscal agent, or any successor federal or state, or both, health insurance program or waiver granted thereunder;</p> <p><b>(h)</b> "medically necessary" means for the purposes of the Kansas medicaid fraud control act only, any goods, service, item, facility, or accommodation, that a reasonable and prudent provider under similar circumstances would believe is appropriate for diagnosing or treating a recipient's condition, illness or injury;</p> <p><b>(i)</b> "pecuniary harm" means harm that is monetary or that otherwise is readily measurable in money, and does not include emotional distress, harm to reputation or other non-economic harm;</p> <p><b>(j)</b> "person" means any agency, association, corporation, firm, limited liability company, limited liability partnership, natural person, organization, partnership or other legal entity, the agents, employees, independent contractors, and subcontractors, thereof, and the legal successors thereto, and any official, employee or agent of a state or federal agency having regulatory or administrative authority over the medicaid program;</p> <p><b>(k)</b> "provider" means a person who has applied to participate in, who currently participates in, who has previously participated in, who attempts or has attempted to participate in the medicaid program, by providing or claiming to have provided goods, services, items, facilities or accommodations;</p> <p><b>(l)</b> "recipient" means an individual, either real or fictitious, in whose behalf any person claimed or received any payment or payments from the medicaid program, or its fiscal agent, whether or not any such individual was eligible for benefits under the medicaid program;</p> <p><b>(m)</b> "records" mean all written documents and electronic or magnetic data, including, but not limited to, medical records, X-rays, professional, financial or business records relating to the treatment or care of any recipient; goods, services, items, facilities or accommodations provided to any such recipient; rates paid for such goods, services, items, facilities or accommodations; and goods, services, items, facilities, or accommodations provided to nonmedicaid recipients to verify rates or amounts of goods, services, items, facilities or accommodations provided to medicaid recipients, as well as any records that the medicaid program, or its fiscal agents require providers to maintain;</p> <p><b>(n)</b> "sign" means to affix a signature, directly or indirectly, by means of handwriting, typewriter, stamp, computer impulse or other means; and</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>(o) "statement or representation" means an electronic, electronic impulse, facsimile, magnetic, oral, telephonic, or written communication that is utilized to identify any goods, service, item, facility or accommodation as reimbursable to the medicaid program, or its fiscal agent, or that states income or expense and is or may be used to determine a rate of payment by the medicaid program, or its fiscal agent.</p> <p>⬆️ <b>History:</b> <a href="#">L. 2010, ch. 136, § 151</a>; July 1, 2011; <a href="#">L. 2014, ch. 82, § 1</a>; July 1, 2014.</p> <p>Chapter 21. CRIMES AND PUNISHMENTS<br/>Article 59. CRIMES AFFECTING GOVERNMENT FUNCTIONS</p> <p><b>K.S.A. § 21-5927 - Making false claim, statement or representation to the medicaid program.</b><br/><a href="http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0027_section/021_059_0027_k/">http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0027_section/021_059_0027_k/</a><br/><b>Making false claim, statement or representation to the medicaid program.</b></p> <p>(a) Medicaid fraud is:</p> <p>(1) With intent to defraud, making, presenting, submitting, offering or causing to be made, presented, submitted or offered:</p> <p>(A) Any false or fraudulent claim for payment for any goods, service, item, facility accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;</p> <p>(B) any false or fraudulent statement or representation for use in determining payments which may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;</p> <p>(C) any false or fraudulent report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;</p> <p>(D) any false or fraudulent statement or representation made in connection with any report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;</p> <p>(E) any statement or representation for use by another in obtaining any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, knowing the statement or representation to be false, in whole or in part, by commission or omission, whether or not the claim is allowed or allowable;</p> <p>(F) any claim for payment, for any goods, service, item, facility, or accommodation, which is not medically necessary in accordance with professionally recognized parameters or as otherwise required by law, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;</p> <p>(G) any wholly or partially false or fraudulent book, record, document, data or instrument, which is required to be kept or which is kept as documentation for any goods, service, item, facility or accommodation or of any cost or expense claimed for reimbursement for any goods, service, item, facility or accommodation for which payment is, has been, or can be sought, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;</p> <p>(H) any wholly or partially false or fraudulent book, record, document, data or instrument to any properly identified law enforcement officer, any properly identified employee or authorized representative of the attorney general, or to any properly identified employee or agent of the Kansas department for aging and disability services, Kansas department of health and environment, or its fiscal agent, in connection with any audit or investigation involving any claim for payment or rate of payment for any goods, service, item, facility or accommodation payable, in whole or in part, under the medicaid program; or</p> <p>(I) any false or fraudulent statement or representation made, with the intent to influence any acts or decision of any official, employee or agent of a state or federal agency having regulatory or administrative authority over the medicaid program; or</p> <p>(2) intentionally executing or attempting to execute a scheme or artifice to defraud the medicaid program or any contractor or subcontractor thereof.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                 | <p><b>(b) (1)</b> Except as provided in subsection (b)(2), for each individual count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2), where the aggregate amount of payments illegally claimed is:</p> <p><b>(A)</b> \$ 250,000 or more, medicaid fraud is a severity level 3, nonperson felony;</p> <p><b>(B)</b> at least \$ 100,000 but less than \$ 250,000, medicaid fraud is a severity level 5, nonperson felony;</p> <p><b>(C)</b> at least \$ 25,000 but less than \$ 100,000, medicaid fraud is a severity level 7, nonperson felony;</p> <p><b>(D)</b> at least \$ 1,000 but less than \$ 25,000, medicaid fraud is a severity level 9, nonperson felony; and</p> <p><b>(E)</b> less than \$ 1,000, medicaid fraud is a class A nonperson misdemeanor.</p> <p><b>(2)</b> For each individual count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2):</p> <p><b>(A)</b> When great bodily harm results from such act, regardless of the aggregate amount of payments illegally claimed, medicaid fraud is a severity level 4, person felony, except as provided in subsection (b)(2)(B); and</p> <p><b>(B)</b> when death results from such act, regardless of the aggregate amount of payments illegally claimed, medicaid fraud is a severity level 1, person felony.</p> <p><b>(3)</b> Medicaid fraud as defined in subsection (a)(1)(H) or (a)(1)(I) is a severity level 9, nonperson felony.</p> <p><b>(c)</b> In determining what is medically necessary pursuant to subsection (a)(1)(F), the attorney general may contract with or consult with qualified health care providers and other qualified individuals to identify professionally recognized parameters for the diagnosis or treatment of the recipient's condition, illness or injury.</p> <p><b>(d)</b> In sentencing for medicaid fraud, subsection (c)(3) of <a href="#">K.S.A. 2013 Supp. 21-6815</a>, and amendments thereto, shall not apply and an act or omission by the defendant that resulted in any medicaid recipient receiving any service that was of lesser quality or amount than the service to which such recipient was entitled may be considered an aggravating factor in determining whether substantial and compelling reasons for departure exist pursuant to <a href="#">K.S.A. 2013 Supp. 21-6801</a> through <a href="#">21-6824</a>, and amendments thereto.</p> <p><b>(e)</b> A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.</p> <p> <b>History:</b> <a href="#">L. 2010, ch. 136, § 152</a>; July 1, 2011; <a href="#">L. 2014, ch. 89, § 2</a>; <a href="#">L. 2014, ch. 115, § 22</a>; July 1, 2014</p> <p><b><i>K.S.A. § 21-5928 - Unlawful acts relating to the medicaid program.</i></b><br/><a href="http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0028_section/021_059_0028_k/">http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0028_section/021_059_0028_k/</a></p> <p>(a) No recipient of medicaid benefits, family member of such recipient, or provider of medicaid services shall intentionally:</p> <p>(1) Solicit or receive any remuneration, including but not limited to any kickback, bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind:</p> <p>(A) In return for referring or refraining from referring an individual to a person for the furnishing or arranging for the furnishing of any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program; or</p> <p>(B) in return for purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>(2) offer or pay any remuneration, including, but not limited to, any kickback, bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person:</p> <p>(A) To refer or refrain from referring an individual to a person for the furnishing or arranging for the furnishing of any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program; or</p> <p>(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program; or</p> <p>(3) divide or share any funds illegally obtained from the medicaid program.</p> <p>(b) No medicaid recipient shall intentionally trade a medicaid number for money or other remuneration, sign for services that are not received by the medicaid recipient or sell or exchange for value goods purchased or provided under the medicaid program.</p> <p>(c) A violation of this section is a severity level 7, nonperson felony.</p> <p>(d) This section shall not apply to a refund, discount, copayment, deductible, incentive or other reduction obtained by a provider in the ordinary course of business, and appropriately reflected in the claims or reports submitted to the medicaid program, or its fiscal agent, nor shall it be construed to prohibit deductibles, copayments or any other cost or risk sharing arrangements which are a part of any program operated by or pursuant to contracts with the medicaid program.</p> <p><b>HISTORY:</b> L. 2010, ch. 136, § 153; July 1, 2011.</p> <p><b><i>K.S.A. § 21-5929 - Obstruction of a medicaid fraud investigation.</i></b><br/><a href="http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0029_section/021_059_0029_k/">http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0029_section/021_059_0029_k/</a></p> <p>(a) Obstruction of a medicaid fraud investigation is intentionally engaging in one or more of the following during an investigation of any matter pursuant to <i>K.S.A. 2011 Supp. 21-5925</i> through <i>21-5934</i> and <i>K.S.A. 2011 Supp. 75-725</i> and <i>75-726</i>, and amendments thereto:</p> <p>(1) Falsifying, concealing or covering up a material fact by any trick, misstatement, scheme or device; or</p> <p>(2) making or causing to be made any materially false writing or document knowing that such writing or document contains any false, fictitious or fraudulent statement or entry.</p> <p>(b) Obstruction of a medicaid fraud investigation is a severity level 9, nonperson felony.</p> <p><b>HISTORY:</b> L. 2010, ch. 136, § 161; July 1, 2011.</p> <p><b><i>K.S.A. § 21-5930 - Failure to maintain adequate records.</i></b><br/><a href="http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0030_section/021_059_0030_k/">http://kslegislature.org/li/b2015_16/statute/021_000_0000_chapter/021_059_0000_article/021_059_0030_section/021_059_0030_k/</a></p> <p>(a) Failure to maintain adequate records is negligently failing to maintain such records as are necessary to disclose fully:</p> <p>(1) The nature of the goods, services, items, facilities or accommodations for which a claim was submitted or payment was received under the medicaid program; or</p> <p>(2) all income and expenditures upon which rates of payment were based under the medicaid program.</p> <p>(b) Failure to maintain adequate records is a class A, nonperson misdemeanor.</p> <p>(c) Upon submitting a claim for or upon receiving payment for goods, services, items, facilities or accommodations under the medicaid program, a person shall maintain adequate records for five years after the date on which payment was received, if payment was received, or for five years after the date on which the claim was submitted, if the payment was not received.</p> <p><b>HISTORY:</b> L. 2010, ch. 136, § 154; July 1, 2011.</p> |




| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p><b><i>K.S.A. § 21-5931 - Destruction or concealment of records.</i></b></p> <p>(a) Destruction or concealment of records is intentionally destroying or concealing such records as are necessary to disclose fully:</p> <p>(1) The nature of the goods, services, items, facilities or accommodations for which a claim was submitted or payment was received under the medicaid program; or</p> <p>(2) all income and expenditures upon which rates of payment were based under the medicaid program.</p> <p>(b) Destruction or concealment of records is a severity level 9, nonperson felony.</p> <p>(c) Upon submitting a claim for or upon receiving payment for goods, services, items, facilities or accommodations under the medicaid program, a person shall not destroy or conceal any records for five years after the date on which payment was received, if payment was received, or for five years after the date on which the claim was submitted, if the payment was not received.</p> <p><b>HISTORY:</b> L. 2010, ch. 136, § 155; July 1, 2011.</p> <p><b><i>K.S.A. § 21-5932 - Defense of actions.</i></b></p> <p>Offers of repayment or repayment occurring after the filing of criminal charges of payments, goods, services, items, facilities or accommodations wrongfully obtained shall not constitute a defense to or ground for dismissal of criminal charges brought pursuant to <i>K.S.A. 2011 Supp. 21-5925</i> through <i>21-5934</i> and K.S.A. 2012 2011 Supp. 75-725 and 75-726, and amendments thereto.</p> <p><b>HISTORY:</b> L. 2010, ch. 136, § 156; July 1, 2011.</p> <p><b><i>K.S.A. § 21-5933 - Penalties; medicaid fraud reimbursement fund; medicaid fraud prosecution revolving fund.</i></b></p> <p>(a) In addition to any other criminal penalties provided by law, any person convicted of a violation of the Kansas medicaid fraud control act may be liable for all of the following:</p> <p>(1) Payment of full restitution of the amount of the excess payments;</p> <p>(2) payment of interest on the amount of any excess payments at the maximum legal rate in effect on the date the payment was made to the person for the period from the date upon which payment was made, to the date upon which repayment is made; and</p> <p>(3) payment of all reasonable expenses that have been necessarily incurred in the enforcement of the Kansas medicaid fraud control act including, but not limited to, the costs of the investigation, litigation and attorney fees.</p> <p>(b) In addition to any other criminal penalties provided by law, any person convicted of a violation of the Kansas medicaid fraud control act shall, upon request of the attorney general at any time prior to sentencing, be subject to a fine of not less than \$ 1,000 and not more than \$ 11,000 for each violation of such act.</p> <p>(c) All moneys recovered pursuant to subsection (a)(1) and (2), shall be remitted to the state treasurer in accordance with the provisions of <a href="#"><i>K.S.A. 75-4215</i></a>, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medicaid fraud reimbursement fund, which is hereby established in the state treasury. Moneys in the medicaid fraud reimbursement fund shall be divided and payments made from such fund to the federal government and affected state agencies for the refund of moneys falsely obtained from the federal and state governments.</p> <p>(d) All moneys recovered pursuant to subsection (a)(3) shall be remitted to the state treasurer in accordance with the provisions of <a href="#"><i>K.S.A. 75-4215</i></a>, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medicaid fraud prosecution revolving fund, which is hereby established in the state treasury. Moneys in the medicaid fraud prosecution revolving fund may be appropriated to the attorney general, or to any county or district attorney who has successfully prosecuted an action for a violation of the Kansas medicaid fraud control act and been awarded such costs of prosecution, in order to defray the costs of the attorney general and any such county or district attorney in connection with their duties provided by the Kansas medicaid fraud control act. No moneys shall be paid into the medicaid fraud prosecution revolving fund pursuant to this section unless the attorney general or appropriate county or district attorney has commenced a prosecution pursuant to this section, and the court finds in its discretion that payment of attorney fees and investigative costs is appropriate under all the circumstances, and the attorney general, or county or district attorney has proven to the court that the expenses were reasonable and necessary to the investigation and prosecution of such case, and the court approves such expenses as being reasonable and necessary.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>(e) All moneys recovered pursuant to subsection (b) shall be remitted to the state treasurer in accordance with the provisions of <a href="#">K.S.A. 75-4215</a>, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the false claims litigation revolving fund established by <a href="#">K.S.A. 2013 Supp. 75-7508</a>, and amendments thereto.</p> <p>⬆️<b>History:</b> <a href="#">L. 2010, ch. 136, § 157</a>; July 1, 2011; <a href="#">L. 2014, ch. 89, § 3</a>; July 1, 2014.</p> <p><b>K.S.A. § 21-5934 - Other remedies available as provided by law.</b><br/><a href="http://kslegislature.org/li/b2011_12/statute/021_000_0000_chapter/021_059_0000_article/021_059_0034_section/021_059_0034_k/">http://kslegislature.org/li/b2011_12/statute/021_000_0000_chapter/021_059_0000_article/021_059_0034_section/021_059_0034_k/</a></p> <p>The provisions of <i>K.S.A. 2011 Supp. 21-5925</i> through <i>21-5934</i> and <i>K.S.A. 2011 Supp. 75-725</i> and 75-726, and amendments thereto, are not intended to be exclusive remedies and do not preclude the use of any other criminal or civil remedy.</p> <p><b>HISTORY:</b> L. 2010, ch. 136, § 160; July 1, 2011.</p> <p>Chapter 75. STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES<br/>Article 6b. STATE TAX LEVIES FOR BUILDINGS Article 7. ATTORNEY GENERAL</p> <p><b>K.S.A. § 75-725 - Medicaid fraud and abuse division in the office of the attorney general.</b></p> <p>(a) There is hereby created within the office of the attorney general a medicaid fraud and abuse division.</p> <p>(b) The medicaid fraud and abuse division shall be the same entity to which all cases of suspected medicaid fraud shall be referred by the Kansas department for children and families, Kansas department for aging and disability services and the department of health and environment, or such departments' fiscal agents, for the purpose of investigation, criminal prosecution or referral to the district or county attorney for criminal prosecution.</p> <p>(c) In carrying out these responsibilities, the attorney general shall have:</p> <p>(1) All the powers necessary to comply with the federal laws and regulations relative to the operation of the medicaid fraud and abuse division;</p> <p>(2) the power to investigate and criminally prosecute violations of <a href="#">K.S.A. 2014 Supp. 21-5926</a> through <a href="#">21-5934</a>, <a href="#">75-725</a> and <a href="#">75-726</a>, and amendments thereto;</p> <p>(3) the power to cross-designate assistant United States attorneys as assistant attorneys general;</p> <p>(4) the power to issue, serve or cause to be issued or served subpoenas or other process in aid of investigations and prosecutions;</p> <p>(5) the power to administer oaths and take sworn statements under penalty of perjury;</p> <p>(6) the power to serve and execute in any county, search warrants which relate to investigations authorized by <a href="#">K.S.A. 2014 Supp. 21-5926</a> through <a href="#">21-5934</a>, <a href="#">75-725</a> and <a href="#">75-726</a>, and amendments thereto; and</p> <p>(7) the powers of a district or county attorney.</p> <p>⬆️<b>History:</b> L. 2010, ch. 136, § 138; L. 2011, ch. 30, § 43; July 1; L. 2014, ch. 115, § 314; July 1, 2014.</p> <p><b>K.S.A. § 75-726 - Access to records by the attorney general.</b></p> <p>(a) The attorney general shall be allowed access to all records held by a provider:</p> <p>(1) That are directly related to an alleged violation of <a href="#">K.S.A. 2011 Supp. 21-5926</a> through <a href="#">21-5934</a>, <a href="#">75-725</a> and 75-726, and amendments thereto, and which are necessary for the purpose of investigating whether any person</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>may have violated such statutes; or</p> <p>(2) for use or potential use in any legal, administrative or judicial proceeding pursuant to <a href="#">K.S.A. 2011 Supp. 21-5926</a> through <a href="#">21-5934</a>, <a href="#">75-725</a> and 75-726, and amendments thereto.</p> <p>(b) No person holding such records may refuse to provide the attorney general with access to such records on the basis that release would violate any:</p> <p>(1) Recipient's right of privacy;</p> <p>(2) recipient's privilege against disclosure or use; or</p> <p>(3) professional or other privilege or right.</p> <p>(c) The disclosure of patient information as required by <a href="#">K.S.A. 2011 Supp. 21-5926</a> through <a href="#">21-5934</a>, <a href="#">75-725</a> and 75-726, and amendments thereto, shall not subject any provider to liability for breach of any confidential relationship between a patient and a provider.</p> <p>(d) Notwithstanding <a href="#">K.S.A. 60-427</a>, and amendments thereto, there shall be no privilege preventing the furnishing of such information or reports as required by <a href="#">K.S.A. 2011 Supp. 21-5926</a> through <a href="#">21-5934</a>, <a href="#">75-725</a> and 75-726, and amendments thereto, by any person.</p> <p>📌History: <a href="#">L. 2010, ch. 136, § 159</a>; <a href="#">L. 2011, ch. 30, § 44</a>; July 1.</p> <p><b>K.S.A. § 75-7501 - Kansas false claims act; citation.</b><br/><a href="http://kslegislature.org/li/b2015_16/statute/075_000_0000_chapter/075_075_0000_article/">http://kslegislature.org/li/b2015_16/statute/075_000_0000_chapter/075_075_0000_article/</a><br/>K.S.A. 2009 Supp. 75-7501 through 75-7511, and amendments thereto, shall be known and may be cited as the "Kansas false claims act."<br/>History: <a href="#">L. 2009, ch. 103, § 1</a>; Apr. 30.</p> <p><b>K.S.A. § 75-7502 - Same; definitions.</b></p> <p>For purposes of this act:</p> <p>(a) "Act" means the Kansas false claims act.</p> <p>(b) "Claim" includes any request or demand, whether under contract or otherwise, for money, property or services made to any employee, officer or agent of the state or any political subdivision thereof or made to any contractor, grantee or other recipient if the state or any political subdivision thereof provides any portion of the money, property or services which is requested or demanded, or if the state will reimburse such contractor, grantee or other recipient for any portion of the money or property which is requested or demanded.</p> <p>(c) "Political subdivision" includes political or taxing subdivisions of the state, including municipal and quasi-municipal corporations, boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups or administrative units thereof, receiving or expending and supported, in whole or in part, by public funds and any municipality as defined in <a href="#">K.S.A. 75-1117</a>, and amendments thereto.</p> <p>(d) "Person" includes any natural person, corporation, firm, association, organization, partnership, business or trust.</p> <p>(e) "Knowing" and "knowingly" mean that a person, with respect to information, does any of the following:</p> <p>(1) Has actual knowledge of the information;</p> <p>(2) acts in deliberate ignorance of the truth or falsity of the information; or</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>(3) acts in reckless disregard of the truth or falsity of the information.<br/><b>History:</b> <a href="#">L. 2002, ch. 103, § 2</a>; Apr. 30.</p> <p><b>K.S.A. § 75-7503 - 75-7503 Same; false claims; liability; damages; civil penalties; civil action.</b></p> <p>(a) A person who commits any of the following acts shall be liable to the state or any affected political subdivision thereof, for three times the amount of damages which the state or such political subdivision sustains because of the act of that person and shall be liable to the state for a civil penalty of not less than \$ 1,000 and not more than \$ 11,000 for each violation. A person found to have committed any of the following acts shall be liable to the state or such affected political subdivision for all reasonable costs and attorney fees incurred in a civil action brought to recover any of those penalties or damages. The following acts constitute violations for which civil penalties, costs and attorney fees may be recovered by a civil action under this act:</p> <p>(1) Knowingly presents or causes to be presented to any employee, officer or agent of the state or political subdivision thereof or to any contractor, grantee or other recipient of state funds or funds of any political subdivision thereof, a false or fraudulent claim for payment or approval;</p> <p>(2) knowingly makes, uses or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved;</p> <p>(3) defrauds the state or any political subdivision thereof by getting a false claim allowed or paid or by knowingly making, using or causing to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state or to any political subdivision thereof;</p> <p>(4) has possession, custody or control of public property or money used or to be used by the state or any political subdivision thereof and knowingly delivers or causes to be delivered less property or money than the amount for which the person receives a certificate or receipt;</p> <p>(5) is authorized to make or deliver a document certifying receipt of property used or to be used by the state or any political subdivision thereof and knowingly makes or delivers a receipt that falsely represents the property received;</p> <p>(6) knowingly buys or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property;</p> <p>(7) is a beneficiary of an inadvertent submission of a false claim to any employee, officer or agent of the state or political subdivision thereof, or to any contractor, grantee or other recipient of state funds or funds of any political subdivision thereof, 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 thereof within a reasonable time after discovery of the false claim;</p> <p>(8) conspires to commit any violation set forth in paragraphs (1) through (7), above.</p> <p>(b) Notwithstanding the provisions of subsection (a), the court may assess not more than two times the amount of damages which the state or any political subdivision thereof sustains because of the act of the person in violation of paragraphs (1) through (8) of subsection (a) and no civil penalty shall be imposed, if the court finds all of the following:</p> <p>(1) 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 30 days after the date on which the person first obtained the information;</p> <p>(2) the person fully cooperated with any investigation by the state; and</p> <p>(3) at the time the person furnished the state with information about the violation, no criminal prosecution, civil action or administrative action had commenced with respect to the violation and the person did not have actual knowledge of the existence of an investigation into the violation.</p> <p>(c) In a civil action brought pursuant to subsection (a), proof of specific intent to defraud is not required. An innocent mistake shall be a defense to an action under this act.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(d) This section does not apply to claims, records or statements related to state taxation law made pursuant to chapter 79 of the Kansas Statutes Annotated, and amendments thereto.<br/><b>History:</b> <a href="#">L. 2009, ch. 103, § 3</a>; Apr. 30.</p> <p><b>K.S.A. § 75-7504 - Same; powers and duties of attorney general; no private cause of action.</b></p> <p>(a) The attorney general shall diligently investigate a violation under K.S.A. 2009 Supp. 75-7503, and amendments thereto. If the attorney general finds that a person has violated or is violating K.S.A. 2009 Supp. 75-7503, and amendments thereto, the attorney general may bring a civil action under this section against that person. Further, the attorney general may utilize the assistance of city and county attorneys in cases involving their respective political subdivisions or may utilize funds available pursuant to K.S.A. 2009 Supp. 75-7508, and amendments thereto, to engage the services of private attorneys to assist in carrying out the purposes of this act, or both, at times when the attorney general determines the need exists. All local prosecutors and private attorneys shall only participate at the request, and under the direction of, the attorney general.<br/><b>History:</b> <a href="#">L. 2009, ch. 103, § 4</a>; Apr. 30.</p> <p><b>K.S.A. § 40-2,118 - Fraudulent insurance act defined; penalty; notification of commissioner, when; antifraud plan.</b></p> <p><b>(a)</b> For purposes of this act a "fraudulent insurance act" means an act committed by any person who, 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, purported insurer, broker or any agent thereof, any written, electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto.</p> <p><b>(b)</b> An insurer that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed shall provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may require.</p> <p><b>(c)</b> Any other person that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed may provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may request.</p> <p><b>(d) (1)</b> Each insurer shall have antifraud initiatives reasonably calculated to detect fraudulent insurance acts. Antifraud initiatives may include fraud investigators, who may be insurer employees or independent contractors and an antifraud plan submitted to the commissioner no later than July 1, 2007. Each insurer that submits an antifraud plan shall notify the commissioner of any material change in the information contained in the antifraud plan within 30 days after such change occurs. Such insurer shall submit to the commissioner in writing the amended antifraud plan.<br/>The requirement for submitting any antifraud plan, or any amendment thereof, to the commissioner shall expire on the date specified in subsection (d)(2) unless the legislature reviews and reenacts the provisions of subsection (d)(2) prior to such date.</p> <p><b>(2)</b> Any antifraud plan, or any amendment thereof, submitted to the commissioner for informational purposes only shall be confidential and not be a public record and shall not be subject to discovery or subpoena in a civil action unless following an in camera review, the court determines that the antifraud plan is relevant and otherwise admissible under the rules of evidence set forth in article 4 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto. The provisions of this paragraph shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.</p> <p><b>(e)</b> Except as otherwise specifically provided in <a href="#">K.S.A. 2015 Supp. 21-5812(a)</a>, and amendments thereto, and <a href="#">K.S.A. 44-5,125</a>, and amendments thereto, a fraudulent insurance act shall constitute a severity level 6, nonperson felony if the amount involved is \$ 25,000 or more; a severity level 7, nonperson felony if the amount is at least \$ 5,000 but less than \$ 25,000; a severity level 8, nonperson felony if the amount is at least \$ 1,000 but less than \$ 5,000; and a class C nonperson misdemeanor if the amount is less than \$ 1,000. Any combination of fraudulent acts as defined in subsection (a) which occur in a period of six consecutive months which involves \$ 25,000 or more shall have a presumptive sentence of imprisonment regardless of its location on the sentencing grid block.</p> <p><b>(f)</b> In addition to any other penalty, a person who violates this statute shall be ordered to make restitution to the insurer or any other person or entity for any financial loss sustained as a result of such violation. An insurer shall not be required to provide coverage or pay any claim involving a fraudulent insurance act.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p><b>(g)</b> This act shall apply to all insurance applications, ratings, claims and other benefits made pursuant to any insurance policy.</p> <p> <b>History:</b> L. 1985, ch. 155, § 1; <a href="#">L. 1994, ch. 43, § 1</a>; <a href="#">L. 2006, ch. 128, § 1</a>; <a href="#">L. 2006, ch. 194, § 29</a>; <a href="#">L. 2007, ch. 150, § 4</a>; <a href="#">L. 2011, ch. 11, § 6</a>; <a href="#">L. 2011, ch. 91, § 22</a>; July 1; <a href="#">L. 2015, ch. 45, § 4</a>; <a href="#">L. 2016, ch. 82, § 7</a>; July 1, 2016.</p> <p>.</p> <p><b>K.A.R. § 30-5-60 - Provider termination/suspension.</b></p> <p>(a) Any provider's participation in the medicaid/medikan program may be terminated for one or more of the following reasons:</p> <p>(1) Voluntary withdrawal of the provider from participation in the program;</p> <p>(2) non-compliance with applicable state laws, administrative regulations, or program issuances concerning medical providers;</p> <p>(3) non-compliance with the terms of a provider agreement;</p> <p>(4) non-compliance with the terms and certification set forth on claims submitted to the agency for reimbursement;</p> <p>(5) assignment, granting a power of attorney over, or otherwise transferring right to payment of program claims except as set forth in <a href="#">42 U.S.C. 1396a</a> (32), revised July 18, 1984, which is adopted by reference;</p> <p>(6) pattern of submitting inaccurate billings or cost reports;</p> <p>(7) pattern of submitting billings for services not covered under the program;</p> <p>(8) pattern of unnecessary utilization;</p> <p>(9) unethical or unprofessional conduct;</p> <p>(10) suspension or termination of license, registration, or certification;</p> <p>(11) provision of goods, services, or supplies harmful to individuals or of an inferior quality;</p> <p>(12) civil or criminal fraud against Medicare, the Kansas medicaid/medikan or social service programs, or any other state's medicaid or social service programs;</p> <p>(13) suspension or exclusion by the secretary of health and human services from the title XVIII or title XIX programs;</p> <p>(14) direct or indirect ownership or controlling interest of five percent or more in a provider institution, organization or agency by a person who has been found guilty of civil or criminal fraud against the Medicare program or the Kansas medicaid/medikan or social service programs or any other state's medicaid or social service programs;</p> <p>(15) employment or appointment by a provider of a person in a managerial capacity or as an agent if the person has been found guilty of civil or criminal fraud against the Medicare program or the Kansas medicaid/medikan or social service programs or any other state's medicaid or social service programs;</p> <p>(16) insolvency; or</p> <p>(17) other good cause.</p> <p>(b) Termination, unless based upon civil or criminal fraud against the program, suspension or exclusion by the secretary of health and human services, shall remain in effect until the agency determines that the reason for the termination has been removed and that there is a reasonable assurance that it shall not recur. Terminations based upon civil or criminal fraud shall remain in effect for such time period as deemed appropriate by the</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>agency. Termination based upon suspension or exclusion by the secretary of health and human services (HHS) shall remain in effect no less than the time period specified in HHS' notice of suspension.</p> <p>(c) Prior to the termination of a provider from the program, the provider shall be sent a written notification by the agency of the proposed termination and the reasons. The notice shall state whether payment liability to the provider has been suspended pending further proceedings. The notice shall further advise the provider that an appearance before the section may be permitted at a specified time, not less than five days nor more than 15 days from the date the notice is mailed to or served upon the provider. At the appearance the provider may present any relevant evidence and have an opportunity to be heard on the question of continuing eligibility in the program. All evidence presented, including that of the provider, shall be considered by the agency. If the decision is to terminate, a written order of termination shall be issued, setting forth the effective date of the termination and the basic underlying facts supporting the order.</p> <p>(d) Any provider found not to be in compliance with one or more requirements set forth in <a href="#">K.A.R. 30-5-59</a> may be subject to suspension of payment or other remedies in lieu of termination. The effective date of this regulation shall be May 3, 1993.<br/>Authorized by and implementing <a href="#">K.S.A. 1991 Supp. 39-708c</a>, as amended by L. 1992, Chapter 322, Sec. 5; effective May 1, 1981; amended May 1, 1986; amended July 1, 1989; amended, T-30-12-28-89, Jan. 1, 1990; amended, T-30-2-28-90, Feb. 28, 1990; amended Aug. 1, 1990; amended May 3, 1993.</p> <p><b>K.S.A. § 75-727 - Payment of reward for persons providing certain information.</b></p> <p>(a) The attorney general is hereby authorized to pay a reward not to exceed \$ 5,000 to any person who first furnishes information to the attorney general concerning a violation by any person of the medicaid fraud control act, the false claims act, or any other provision of law that protects the integrity of the public treasury.</p> <p>(b) No employee of a governmental entity shall be eligible for a reward under this section, unless the information furnished to the attorney general does not relate in any manner to such employee's responsibilities as an employee of a governmental entity, as determined solely by the attorney general. As used in this section, "employee" and "governmental entity" mean the same as in <a href="#">K.S.A. 75-6102</a>, and amendments thereto.</p> <p>(c) Any reward pursuant to this section shall be paid only upon certification by the attorney general that information provided by such informant: (1) Was not previously known to the attorney general; and (2) materially contributed to an investigation conducted by the attorney general. No such reward shall be paid except after entry of judgment in favor of the state, or conviction for violation of the law, in the matter upon which the informant provided information.</p> <p>(d) Any reward payment authorized by this section shall be made on the order of the attorney general from the medicaid fraud prosecution revolving fund established by <a href="#">K.S.A. 2013 Supp. 21-5933</a>, and amendments thereto. The attorney general shall have sole discretion in determining whether a reward shall be paid, the amount of any such payment not to exceed \$ 5,000 and whether an informant is eligible to receive such reward.</p> <p>(e) The attorney general shall inform the public of rewards authorized by this section for the purpose of encouraging persons to furnish information described in subsection (a) to the attorney general.</p> <p>(f) The attorney general may promulgate rules and regulations necessary to carry out the provisions of this section.<br/>History: <a href="#">L. 2013, ch. 28, § 1</a>; July 1.</p> <p><b>K.A.R. § 30-5-60 - Provider termination/suspension.</b></p> <p>(a) Any provider's participation in the medicaid/medikan program may be terminated for one or more of the following reasons:</p> <p>(1) Voluntary withdrawal of the provider from participation in the program;</p> <p>(2) non-compliance with applicable state laws, administrative regulations, or program issuances concerning medical providers;</p> <p>(3) non-compliance with the terms of a provider agreement;</p> <p>(4) non-compliance with the terms and certification set forth on claims submitted to the agency for reimbursement;</p> <p>(5) assignment, granting a power of attorney over, or otherwise transferring right to payment of program claims except as set forth in <a href="#">42 U.S.C. 1396a</a> (32), revised July 18, 1984, which is adopted by reference;</p> <p>(6) pattern of submitting inaccurate billings or cost reports;</p> <p>(7) pattern of submitting billings for services not covered under the program;</p> <p>(8) pattern of unnecessary utilization;</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                 | <p>(9) unethical or unprofessional conduct;</p> <p>(10) suspension or termination of license, registration, or certification;</p> <p>(11) provision of goods, services, or supplies harmful to individuals or of an inferior quality;</p> <p>(12) civil or criminal fraud against Medicare, the Kansas medicaid/medikan or social service programs, or any other state's medicaid or social service programs;</p> <p>(13) suspension or exclusion by the secretary of health and human services from the title XVIII or title XIX programs;</p> <p>(14) direct or indirect ownership or controlling interest of five percent or more in a provider institution, organization or agency by a person who has been found guilty of civil or criminal fraud against the Medicare program or the Kansas medicaid/medikan or social service programs or any other state's medicaid or social service programs;</p> <p>(15) employment or appointment by a provider of a person in a managerial capacity or as an agent if the person has been found guilty of civil or criminal fraud against the Medicare program or the Kansas medicaid/medikan or social service programs or any other state's medicaid or social service programs;</p> <p>(16) insolvency; or</p> <p>(17) other good cause.</p> <p>(b) Termination, unless based upon civil or criminal fraud against the program, suspension or exclusion by the secretary of health and human services, shall remain in effect until the agency determines that the reason for the termination has been removed and that there is a reasonable assurance that it shall not recur. Terminations based upon civil or criminal fraud shall remain in effect for such time period as deemed appropriate by the agency. Termination based upon suspension or exclusion by the secretary of health and human services (HHS) shall remain in effect no less than the time period specified in HHS' notice of suspension.</p> <p>(c) Prior to the termination of a provider from the program, the provider shall be sent a written notification by the agency of the proposed termination and the reasons. The notice shall state whether payment liability to the provider has been suspended pending further proceedings. The notice shall further advise the provider that an appearance before the section may be permitted at a specified time, not less than five days nor more than 15 days from the date the notice is mailed to or served upon the provider. At the appearance the provider may present any relevant evidence and have an opportunity to be heard on the question of continuing eligibility in the program. All evidence presented, including that of the provider, shall be considered by the agency. If the decision is to terminate, a written order of termination shall be issued, setting forth the effective date of the termination and the basic underlying facts supporting the order.</p> <p>(d) Any provider found not to be in compliance with one or more requirements set forth in <a href="#">K.A.R. 30-5-59</a> may be subject to suspension of payment or other remedies in lieu of termination. The effective date of this regulation shall be May 3, 1993.</p> <p><b>Authorized by and implementing</b> <a href="#">K.S.A. 1991 Supp. 39-708c</a>, as amended by L. 1992, Chapter 322, Sec. 5; effective May 1, 1981; amended May 1, 1986; amended July 1, 1989; amended, T-30-12-28-89, Jan. 1, 1990; amended, T-30-2-28-90, Feb. 28, 1990; amended Aug. 1, 1990; amended May 3, 1993.</p> |
|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                 | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                 | <p>CHAPTER 75. STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES</p> <p><b>K.S.A. § 75-2973 - Kansas whistleblower act; state employee communications with legislators, legislative committees, auditing agencies and others; prohibited acts; relief and appeals, costs.</b></p> <p>(a) This section shall be known and may be cited as the Kansas whistleblower act.</p> <p>(b) As used in this section:</p> <p>(1) "Auditing agency" means the (A) legislative post auditor, (B) any employee of the division of post audit, (C) any firm performing audit services pursuant to a contract with the post auditor, (D) any state agency or federal agency or authority performing auditing or other oversight activities under authority of any provision of law authorizing such activities, or (E) the inspector general created under <a href="#">K.S.A. 2011 Supp. 75-7427</a> and amendments thereto.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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|                 | <p>(2) "Disciplinary action" means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work.</p> <p>(3) "State agency" and "firm" have the meanings provided by <a href="#">K.S.A. 46-1112</a> and amendments thereto.</p> <p>(c) No supervisor or appointing authority of any state agency shall prohibit any employee of the state agency from discussing the operations of the state agency or other matters of public concern, including matters relating to the public health, safety and welfare either specifically or generally, with any member of the legislature or any auditing agency.</p> <p>(d) No supervisor or appointing authority of any state agency shall:</p> <p>(1) Prohibit any employee of the state agency from reporting any violation of state or federal law or rules and regulations to any person, agency or organization; or</p> <p>(2) require any such employee to give notice to the supervisor or appointing authority prior to making any such report.</p> <p>(e) This section shall not be construed as:</p> <p>(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative or auditing agency requests for information to the state agency or the substance of testimony made, or to be made, by the employee to legislators or the auditing agency, as the case may be, on behalf of the state agency;</p> <p>(2) permitting an 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 employee is requested by a legislator or legislative committee to appear before a legislative committee or by an auditing agency to appear at a meeting with officials of the auditing agency;</p> <p>(3) authorizing an employee to represent the employee's personal opinions as the opinions of a state agency; or</p> <p>(4) prohibiting disciplinary action of an employee who discloses information which: (A) The employee knows to be false or which the employee discloses with reckless disregard for its truth or falsity, (B) the employee knows to be exempt from required disclosure under the open records act, or (C) is confidential or privileged under statute or court rule.</p> <p>(f) Any officer or employee of a state agency who is in the classified service and has permanent status under the Kansas civil service act may appeal to the state civil service board whenever the officer or employee alleges that disciplinary action was taken against the officer or employee in violation of this act. The appeal shall be filed within 90 days after the alleged disciplinary action. Procedures governing the appeal shall be in accordance with subsections (f) and (g) of <a href="#">K.S.A. 75-2949</a> and amendments thereto and <a href="#">K.S.A. 75-2929d</a> through <a href="#">75-2929g</a> and amendments thereto. If the board finds that disciplinary action taken was unreasonable, the board shall modify or reverse the agency's action and order such relief for the employee as the board considers appropriate. If the board finds a violation of this act, it may require as a penalty that the violator be suspended on leave without pay for not more than 30 days or, in cases of willful or repeated violations, may require 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 board may award the prevailing party all or a portion of the costs of the proceedings before the board, including reasonable attorney fees and witness fees. The decision of the board pursuant to this subsection may be appealed by any party pursuant to law. On appeal, the court may award the prevailing party all or a portion of the costs of the appeal, including reasonable attorney fees and witness fees.</p> <p>(g) Each state agency shall prominently post a copy of this act in locations where it can reasonably be expected to come to the attention of all employees of the state agency.</p> <p>(h) Any officer or employee who is in the unclassified service under the Kansas civil service act who alleges that disciplinary action has been taken against such officer or employee in violation of this section may bring an action pursuant to the Kansas judicial review act within 90 days after the occurrence of the alleged violation. The court may award the prevailing party in the action all or a portion of the costs of the action, including reasonable attorney fees and witness fees.</p> <p>(i) Nothing in this section shall be construed to authorize disclosure of any information or communication that is confidential or privileged under statute or court rule.</p> <p>📌<b>History:</b> L. 1984, ch. 306, § 1; <a href="#">L. 1990, ch. 306, § 23</a>; <a href="#">L. 1998, ch. 57, § 1</a>; <a href="#">L. 2007, ch. 177, § 17</a>; <a href="#">L. 2010, ch. 17, § 198</a>; July 1.</p> |

| State /Citation                                                                | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                                                                                | <p><b>K.S.A. § 75-7506 - Same; employment retaliation claims.</b></p> <p>Any employee who is discharged, demoted, suspended, threatened, harassed or in any other manner retaliated against in the terms and conditions of employment by such employee's employer because of lawful acts undertaken in good faith 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 be entitled to all relief necessary to make the employee whole. An employee may bring an action in the appropriate district court for the relief provided in this section. This section shall not be construed to create any private cause of action for violations of this act and is limited to the remedies expressly created by this section related to employment retaliation.</p> <p><b>History:</b> <u>L. 2009, ch. 103, § 6</u>; Apr. 30.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><u>Kentucky</u></p> <p>KRS § 205.8451 to 205.8483</p> <p>KRS § 205.8465</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><i>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</i><br/><a href="https://chfs.ky.gov/agencies/dms/dpi/Pages/fraud-abuse.aspx">https://chfs.ky.gov/agencies/dms/dpi/Pages/fraud-abuse.aspx</a></p> <p>Public Assistance and Medical Assistance<br/>Control of Fraud and Abuse<br/><b>KRS 205.8451 to 205.8483</b><br/><a href="https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=38124">https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=38124</a></p> <p><b>205.8451 Definitions for KRS 205.8451 to 205.8483.</b><br/><a href="https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=7851">https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=7851</a><br/>As used in <a href="#">KRS 205.8451</a> to <a href="#">205.8483</a>, unless the context otherwise requires:</p> <p>(1) "Benefit" means the receipt of money, goods, or anything of pecuniary value from the Medical Assistance Program.</p> <p>(2) "Fraud" means an intentional deception or misrepresentation made by a recipient or a provider with the knowledge that the deception could result in some unauthorized benefit to the recipient or provider or to some other person. It includes any act that constitutes fraud under applicable federal or state law.</p> <p>(3) "Immediate family member" means a parent, grandparent, spouse, child, stepchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, sibling, brother-in-law, sister-in-law, or grandchild.</p> <p>(4) "Intentional" or "intentionally" means, with respect to a result or to conduct described by a statute defining an offense, that a person's conscious objective is to cause that result or to engage in that conduct.</p> <p>(5) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware that his conduct is of that nature or that the circumstance exists.</p> <p>(6) "Medical Assistance Program" means the program of medical assistance as administered by the Cabinet for Health and Family Services in compliance with Title XIX of the Federal Social Security Act and any administrative regulations related thereto.</p> <p>(7) "Provider" means an individual, company, corporation, association, facility, or institution which is providing or has been approved to provide medical services, goods, or assistance to recipients under the Medical Assistance Program.</p> <p>(8) "Provider abuse" means, with reference to a health care provider, practices that are inconsistent with sound fiscal, business, or medical practices, and that result in unnecessary cost to the Medical Assistance Program established pursuant to this chapter, or that result in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes practices that result in unnecessary cost to the Medical Assistance Program.</p> <p>(9) "Recipient" means any person receiving or who has received medical assistance benefits.</p> <p>(10) "Recipient abuse" means, with reference to a medical assistance recipient, practices that result in unnecessary cost to the Medical Assistance Program or the obtaining of goods, equipment, medicines, or services that are not medically necessary, or that are excessive, or constitute flagrant overuse or misuse of Medical Assistance Program benefits for which the recipient is covered.</p> <p>(11) "Wantonly" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts wantonly with respect thereto.</p> <p><b>HISTORY:</b> (Enact. Acts <a href="#">1994, ch. 96, § 1</a>, effective July 15, 1994; <a href="#">1994, ch. 316, § 1</a>, effective July 15, 1994; <a href="#">1998, ch. 426, § 222</a>, effective July 15, 1998; <a href="#">2005, ch. 99, § 275</a>, effective June 20, 2005.)</p> <p><b>KRS § 205.8453 - Responsibility for control of fraud and abuse.</b><br/>It shall be the responsibility of the Cabinet for Health and Family Services and the Department for Medicaid Services to control recipient and provider fraud and abuse by:</p> <p>(1) Informing recipients and providers as to the proper utilization of medical services and methods of cost containment;</p> <p>(2) Establishing appropriate checks and audits within the Medicaid Management Information System to detect possible instances of fraud and abuse;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(3) Sharing information and reports with other departments within the Cabinet for Health and Family Services, the Office of the Attorney General, and any other agencies that are responsible for recipient or provider utilization review; and</p> <p>(4) Instituting other measures necessary or useful in controlling fraud and abuse.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 2, effective July 15, 1994; 1994, ch. 316, § 2, effective July 15, 1994; 1998, ch. 426, § 223, effective July 15, 1998; 2005, ch. 99, § 276, effective June 20, 2005.)</p> <p><b>KRS § 205.8455 - Recipient Utilization Review Committee -- Authority.</b></p> <p>(1) To implement provisions of this section, the commissioner of the Department for Medicaid Services shall create, no later than July 30, 1994, a Recipient Utilization Review Committee with the authority to:</p> <p>(a) Review individual recipient utilization or program benefits, recipient medical records, and other additional information or data necessary to make a decision;</p> <p>(b) Determine if a recipient has utilized the program or services in a fraudulent or abusive manner;</p> <p>(c) Refer cases of suspected recipient fraud to the Office of the Inspector General in the Cabinet for Health and Family Services;</p> <p>(d) Institute administrative actions to restrict or revoke the recipient's participation in the Medical Assistance Program; and</p> <p>(e) Initiate actions to recover the value of benefits received by the recipient which were determined to be related to fraudulent or abusive activities.</p> <p>(2) The Recipient Utilization Review Committee shall be composed of five (5) members as follows: one (1) licensed physician, one (1) representative from the same program benefit area that is the subject of the review, one (1) recipient or representative of medical assistance benefits, one (1) representative of the Surveillance and Utilization Review Subsystems Unit, as required under Title XIX of the Social Security Act, and the commissioner of the Department for Public Health, who shall serve by virtue of his or her office.</p> <p>(3) A medical assistance recipient whose eligibility has been revoked due to defrauding the Medical Assistance Program shall not be eligible for future medical assistance services for a period of not more than one (1) year or until full restitution has been made to the Department for Medicaid Services, whichever comes first.</p> <p>(4) When a medical assistance recipient whose eligibility has been revoked due to defrauding of the Medical Assistance Program re-applies for coverage, during the period of revocation, due to pregnancy, a communicable disease, or other condition that creates a risk to public health, or a condition which if not treated could result in immediate grave bodily harm, the recipient utilization review committee for the Department for Medicaid Services may change the revoked status of the previously eligible recipient to restricted status if it has been determined that it would be in the best interest of the previously eligible medical assistance recipient to receive coverage for medical assistance services and the person is otherwise eligible. If this change in status is granted, the case shall be reconsidered by the Recipient Utilization Review Committee within sixty (60) days after the restricted status takes effect.</p> <p>(5) Upon determination by the Recipient Utilization Review Committee of the Department for Medicaid Services that a medical assistance recipient has abused the benefits of the Medical Assistance Program, the recipient shall immediately be assigned and restricted to a managed care primary physician designated by the Department for Medicaid Services. Except in the case of an emergency as defined by the recipient utilization review committee and set forth by the Cabinet for Health and Family Services in an administrative regulation promulgated pursuant to KRS Chapter 13A, the restricted recipient shall be eligible to receive covered services only upon presenting to a participating provider, prior to the receipt of services, a dated written referral by the assigned managed care primary physician. Any participating provider who provides services to a medical assistance recipient in violation of the provisions of this subsection shall not be eligible for reimbursement for any services rendered.</p> <p>(6) The Cabinet for Health and Family Services shall request any waivers of federal law that are necessary to implement the provisions of this section.</p> <p>(7) The provisions of paragraphs (d) and (e) of subsection (1) of this section and of subsections (3), (4), and (5) of this section shall have no force or effect until and unless the requested waivers are granted.</p> <p>(8) Nothing in this section shall authorize the Cabinet for Health and Family Services to waive the recipient's or provider's rights to prior notice and hearing as guaranteed by federal law.</p> <p>(9) All complaints received by the Department for Medicaid Services, the Office of the Inspector General, the Office of the Attorney General, or by personnel of the Cabinet for Health and Family Services concerning possible fraud or abuse by a medical assistance recipient shall be forwarded immediately to the Recipient Utilization Review Committee for its consideration. Any cases of possible recipient fraud or abuse uncovered by personnel of the Cabinet for Health and Family Services or by providers shall also be referred immediately to the Recipient Utilization Review Committee for its review. Records shall be kept of all cases, including records of disposition, considered by the Recipient Utilization Review Committee.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 3, effective July 15, 1994; 1994, ch. 316, § 3, effective July 15, 1994; 1998, ch. 426, § 224, effective July 15, 1998; 2005, ch. 99, § 277, effective June 20, 2005.)</p> <p><b>KRS § 205.8457 - Responsibility of managed care primary physician.</b></p> <p>Any provider agreeing to participate as a managed care primary physician of the state's Medical Assistance Program shall be responsible for prior approval of all medical-related services and goods, except transportation, of recipients assigned to the primary physician's care as set forth under administrative regulation promulgated by the Cabinet for Health and Family Services pursuant to KRS Chapter 13A. No primary physician may delegate that primary physician's authority to anyone except a provider designated by the managed care primary physician to temporarily be responsible for the primary physician's managed care patients during the primary physician's absence. The temporarily designated provider shall be approved by the Department for Medicaid Services. Procedures for delegation of authority to a temporarily designated provider shall be approved by the Department for Medicaid Services in accordance with any applicable federal laws or regulations.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 4, effective July 15, 1994; 1994, ch. 316, § 4, effective July 15, 1994; 1998, ch. 426, § 225, effective July 15, 1998; 2005, ch. 99, § 278, effective June 20, 2005.)</p> <p><b>KRS § 205.8459 - Emergency service.</b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(1) Any provider presented with a request for an emergency service, for a nonlife-threatening condition or a condition that would not result in irreparable harm, by a Medicaid recipient participating in a managed care program but not in a restricted Medicaid status, shall not provide the service on an emergency basis unless the provider first makes a reasonable effort to contact the recipient's designated managed care primary physician for prior approval. Any provider presented with a request for an emergency service, due to a life-threatening condition or a condition that would result in irreparable harm, by a Medicaid recipient participating in a managed care program but not in a restricted Medicaid status, may provide the service without prior approval from the recipient's designated managed care primary physician.</p> <p>(2) For the purposes of implementing KRS 205.8455, 205.8457, and this section, the Department for Medicaid Services, in consultation with the Recipient Utilization Review Committee, shall in conformity with the federal Emergency Medical Treatment and Active Labor Act (42 U.S.C. sec. 1395dd, as amended) and any other applicable federal law, and in administrative regulation promulgated pursuant to KRS Chapter 13A, define an emergency service, irreparable harm, immediate grave bodily harm, life-threatening condition, and nonlife-threatening condition.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 5, effective July 15, 1994; 1994, ch. 316, § 5, effective July 15, 1994.)</p> <p><b>KRS § 205.8461 - Unlawful referral practices of provider -- Penalties.</b></p> <p>(1) Except as otherwise provided in KRS 205.510 to 205.630, no provider shall knowingly solicit, receive, or offer any remuneration (including any kickback, bribe, or rebate) for furnishing medical assistance benefits or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made pursuant to Title XIX of the Social Security Act.</p> <p>(2) (a) No provider shall knowingly make, offer, or receive a payment, a rebate of a fee, or a charge for referring a recipient to an-other provider for furnishing of benefits.</p> <p>(b) Any conduct or activity which does not violate or which is protected under the provisions of 42 U.S.C. sec. 1395nn or 42 U.S.C. sec. 1320A-7b(b), as amended, or federal regulations promulgated under those statutes, shall not be deemed to violate the provisions of KRS 205.8451 to 205.8483, and the conduct or activity shall be accorded the same protections allowed under federal law and regulation.</p> <p>(3) Any person who violates subsection (1) or (2) of this section shall be guilty of a Class A misdemeanor unless the combination or aggregation of offenses is valued at three hundred dollars (\$300) or more, in which case it shall be a Class D felony. In addition to any other penalty authorized by law, any person who violates the provisions of subsection (2)(a) of this section shall not be entitled to bill or collect from the recipient or any third-party payor and shall repay any payments due the Commonwealth for services provided which were related to the referral.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 6, effective July 15, 1994; 1994, ch. 316, § 6, effective July 15, 1994.)</p> <p><b>KRS § 205.8463 - Fraudulent acts -- Penalties.</b></p> <p>(1) No person shall knowingly or wantonly devise a scheme or plan a scheme or artifice, or enter into an agreement, combination, or conspiracy to obtain or aid another in obtaining payments from any medical assistance program under this chapter by means of any fictitious, false, or fraudulent application, claim, report, or document submitted to the Cabinet for Health and Family Services, or intentionally engage in conduct which advances the scheme or artifice.</p> <p>(2) No person shall intentionally, knowingly, or wantonly make, present, or cause to be made or presented to an employee or officer of the Cabinet for Health and Family Services any false, fictitious, or fraudulent statement, representation, or entry in any application, claim, report, or document used in determining rights to any benefit or payment.</p> <p>(3) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled-nursing facility, intermediate-care facility, home-health agency, or other provider of services to the Medical Assistance Program.</p> <p>(4) No person shall, in any matter within the jurisdiction of the Cabinet for Health and Family Services under this chapter, knowingly falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry.</p> <p>(5) Any person who violates subsections (1) and (2) of this section shall be guilty of a Class A misdemeanor unless the sum total of benefits or payments claimed in any application, claim, report, or document, or in any combination or aggregation thereof, is valued at three hundred dollars (\$300) or more in which case it shall be a Class D felony. Any person who violates the provisions of subsection (3) of this section shall be guilty of a Class C felony. Any person who violates the provisions of subsection (4) of this section shall be guilty of a Class D felony.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 7, effective July 15, 1994; 1994, ch. 316, § 7, effective July 15, 1994; 1998, ch. 426, § 226, effective July 15, 1998; 2005, ch. 99, § 279, effective June 20, 2005.)</p> <p><b>KRS § 205.8467 - Liability of violators -- Payment of penalties to Medicaid trust fund.</b></p> <p>(1) Any provider who has been found by a preponderance of the evidence in an administrative process, in conformity with any applicable federal regulations and with due process protections, to have knowingly submitted or caused claims to be submitted for payment for furnishing treatment, services, or goods under a medical assistance program provided under this chapter, which payment the provider was not entitled to receive by reason of a violation of this chapter, shall:</p> <p>(a) Be liable for restitution of any payments received in violation of this chapter, and interest at the maximum legal rate pursuant to KRS 360.010 in effect on the date any payment was made, for the period from the date payment was made to the date of repayment to the Commonwealth;</p> <p>(b) Be liable for a civil payment in an amount up to three (3) times the amount of excess payments;</p> <p>(c) Be liable for payment of a civil payment of five hundred dollars (\$500) for each false or fraudulent claim submitted for providing treatment, services, or goods;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(d) Be liable for payment of legal fees and costs of investigation and enforcement of civil payments; and</p> <p>(e) Be removed as a participating provider in the Medical Assistance Program for two (2) months to six (6) months for a first offense, for six (6) months to one (1) year for a second offense, and for one (1) year to five (5) years for a third offense.</p> <p>(2) Civil payments, interest, costs of investigation, and enforcement of the civil remedies recovered on behalf of the Commonwealth under this section shall be remitted to the State Treasurer for deposit in a Medicaid trust fund which is hereby created and shall not lapse. Funds deposited in the Medicaid trust fund shall not be spent until appropriated by the General Assembly for medical assistance services.</p> <p>(3) The remedies under this section are separate from and cumulative to any other administrative, civil, or criminal remedies available under federal or state law or regulation.</p> <p>(4) The Cabinet for Health and Family Services, in consultation with the Office of the Attorney General, may promulgate administrative regulations, pursuant to KRS Chapter 13A, for the administration of the civil payments contained in this section.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 9, effective July 15, 1994; 1994, ch. 316, § 9, effective July 15, 1994; 1998, ch. 426, § 228, effective July 15, 1998; 2005, ch. 99, § 281, effective June 20, 2005.)</p> <p><b>KRS § 205.8469 - Enforcement proceedings by Attorney General.</b></p> <p>(1) The Attorney General, on behalf of the Commonwealth, may commence proceedings to enforce KRS 205.8451 to 205.8483, and to prosecute for all other criminal offenses that involve or are directly related to the use of any Medical Assistance Program funds or services provided under this chapter.</p> <p>(2) In enforcing KRS 205.8451 to 205.8483, the Attorney General may subpoena witnesses or documents to the grand jury, District Court, or Circuit Court of the county or counties where venue lies, and subpoena witnesses or documents to the Office of the Attorney General to secure testimony for use in civil or criminal trials, investigations, or hearings affecting the Cabinet for Health and Family Ser-vices.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 10, effective July 15, 1994; 1994, ch. 316, § 10, effective July 15, 1994; 1998, ch. 426, § 229, effective July 15, 1998; 2005, ch. 99, § 282, effective June 20, 2005.)</p> <p><b>KRS § 205.8471 - Lien on property of provider or recipient defrauding Medicaid program.</b></p> <p>(1) The Commonwealth shall have a lien against all property of any provider or recipient who is found to have defrauded the Medicaid program for an amount equal to the sum defrauded plus any interest and penalties levied under KRS 205.8451 to 205.8483. The lien shall attach to all property and rights to property owned by the provider or recipient and all property subsequently acquired after a finding of fraud by the Cabinet for Health and Family Services.</p> <p>(2) The lien imposed by subsection (1) of this section shall not be defeated by gift, devise, sale, alienation, or any other means, and shall include the sum defrauded and all interest, penalties, fees, or other expenses associated with collection of the debt. The lien shall have priority over any other lien or obligation against the property, except as provided in subsection (3) of this section.</p> <p>(3) The lien imposed by subsection (1) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien which was filed prior to the date on which notice of the lien created by this section is filed by the secretary for health and family services or his designee with the county clerk of the county or counties in which the provider's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice of lien shall be recorded in the same manner as the notice of lis pendens.</p> <p>(4) The secretary for health and family services shall issue a partial release of any part of the property subject to lien upon payment by the debtor of that portion of the debt and any interest, penalty, or fees covered by the lien on that property.</p> <p>(5) The secretary for health and family services may enforce the lien created pursuant to this section in the manner provided for the enforcement of statutory liens under KRS 376.110 to 376.130.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 11, effective July 15, 1994; 1994, ch. 316, § 11, effective July 15, 1994; 1998, ch. 426, § 230, effective July 15, 1998; 2005, ch. 99, § 283, effective June 20, 2005.)</p> <p><b>KRS § 205.8473 - Reliance on written governmental advice as defense.</b></p> <p>In a prosecution for any violation of the provisions of KRS 205.8451 to 205.8483, it shall be a defense if the person relied on the written advice of an employee or agent of the Cabinet for Health and Family Services, and the advice constitutes a defense under any of the provisions of KRS 501.070.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 12, effective July 15, 1994; 1994, ch. 316, § 12, effective July 15, 1994; 1998, ch. 426, § 231, effective July 15, 1998; 2005, ch. 99, § 284, effective June 20, 2005.)</p> <p><b>KRS § 205.8475 - Forfeiture of provider's license.</b></p> <p>(1) Any professional, licensed or regulated by any agency of the Commonwealth of Kentucky, who upon final and unappealable decision by a court of competent jurisdiction, is convicted or pleads guilty to a violation of any of the criminal provisions of KRS 205.8451 to 205.8483, shall, in addition to any other penalty provided by law, forfeit the license to practice his or her profession for a mandatory minimum period of five (5) years. The license to practice a profession shall be reinstated only after compliance with all conditions for reinstatement contained in administrative regulations of the applicable licensure or regulatory board or agency promulgated pursuant to the provisions of KRS Chapter 13A. For purposes of this subsection, an individual or entity is considered to have been "convicted" of an offense when:</p> <p>(a) A judgment of conviction has been entered against the individual or entity by a federal or state court;</p> <p>(b) There has been a finding of guilt against the individual or entity by any court of competent jurisdiction;</p> <p>(c) A plea of guilty by the individual or entity has been accepted by any court of competent jurisdiction; or</p> <p>(d) The individual or entity has entered into participation in a court imposed first offender, deferred adjudication, diversion, or other arrangement or program where judgment of conviction has been withheld.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(2) Pending the final and unappealable decision of a court of competent jurisdiction, as provided under subsection (1) of this section, the provider shall not be eligible to participate in the Kentucky Medical Assistance Program.</p> <p>(3) No provider, owner, officer, or stockholder possessing more than forty percent (40%) of the shares of a provider shall receive payments for medical services or receive profits or remuneration from any other medical assistance provider with which the provider, owner, officer, or stockholder may thereafter become associated until all criminal penalties or civil payments assessed against the provider, owner, officer, or stockholder under KRS 205.8451 to 205.8483 have been satisfied.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 13, effective July 15, 1994; 1994, ch. 316, § 13, effective July 15, 1994.)</p> <p><b>KRS § 205.8477 - Ownership reporting requirements for health facilities and health services.</b></p> <p>1) Each Medicaid provider, other than an individual practitioner or group of practitioners, fiscal agent that processes or pays vendor claims on behalf of the Medicaid agency, and managed care entity shall file a disclosure with the Cabinet for Health and Family Services in accordance with <a href="#">42 C.F.R. sec. 455.104</a> .</p> <p>(2) Each owner of or direct financial investor in any health facility or health service which dispenses or supplies drugs, medicines, medical devices, or durable medical equipment to a patient shall file a disclosure with the Cabinet for Health and Family Services of the names and addresses of any immediate family member who is authorized under state law to prescribe drugs or medicines or medical devices or equipment.</p> <p>(3) Each provider shall, as a condition of participation in the Medical Assistance Program, file a disclosure with the Cabinet for Health and Family Services in accordance with <a href="#">42 C.F.R. sec. 455.105</a> relating to business transactions and in accordance with <a href="#">42 C.F.R. sec. 455.106</a> relating to information on persons convicted of crimes.</p> <p>(4) Disclosures required under this statute shall be provided at any of the following times or as otherwise provided by law:</p> <p>(a) Upon submitting a provider application;</p> <p>(b) Upon executing a provider agreement;</p> <p>(c) Upon request of the Cabinet for Health and Family Services during a provider's revalidation of enrollment;</p> <p>(d) Within thirty-five (35) days after any change in ownership of a health facility or health service, fiscal agent, or managed care entity;</p> <p>(e) Upon the submission of a proposal in accordance with the state's procurement process by a fiscal agent or by a managed care entity;</p> <p>(f) Upon execution, renewal, or extension of a contract by the state with a fiscal agent or a managed care entity; or</p> <p>(g) Upon written request within thirty-five (35) days by the Cabinet for Health and Family Services.</p> <p><b>HISTORY:</b> Enact. Acts <a href="#">1994, ch. 96, § 14</a>, effective July 15, 1994; <a href="#">1994, ch. 316, § 14</a>, effective July 15, 1994; <a href="#">1998, ch. 426, § 232</a>, effective July 15, 1998; <a href="#">2005, ch. 99, § 285</a>, effective June 20, 2005; <a href="#">2015, ch. 80, § 1</a>, effective June 24, 2015.</p> <p><b>KRS § 205.8479 - Report of license or certificate suspension, revocation, or limitation.</b></p> <p>Any provider licensed or certified under the laws of the Commonwealth whose license or certificate to practice is suspended, revoked, limited, or otherwise restricted shall have that fact reported to the medical assistance program by the respective licensure or regulatory board or agency within five (5) working days of the action.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 15, effective July 15, 1994; 1994, ch. 316, § 15, effective July 15, 1994.)</p> <p><b>KRS § 205.8481 - Prohibition against representation of provider by staff of Attorney General in private practice.</b></p> <p>No staff of the Office of the Attorney General shall, in private practice of law, serve as legal counsel to or represent any provider, as defined in KRS 205.8451. Designated staff of the Office of the Attorney General shall work in cooperation with the Cabinet for Health and Family Services in any initiation of disciplinary proceedings against a health-care provider as defined in KRS 205.8451 and as may be authorized or required under KRS 205.8451 to 205.8483 for violations of KRS 205.8451 to 205.8483.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 16, effective July 15, 1994; 1994, ch. 316, § 16, effective July 15, 1994; 1998, ch. 426, § 233, effective July 15, 1998; 2005, ch. 99, § 286, effective June 20, 2005.)</p> <p><b>KRS § 205.8483 - Toll-free hotline for receiving reports of fraud and abuse -- Annual report.</b></p> <p>(1) The Office of the Inspector General in the Cabinet for Health and Family Services shall establish, maintain, and publicize a twenty-four (24) hour toll-free hotline for the purpose of receiving reports of alleged fraud and abuse by Medical Assistance Program recipients and participating providers.</p> <p>(2) The Office of the Inspector General in the Cabinet for Health and Family Services shall prepare a written description of the re-reported information and immediately make a written referral to:</p> <p>(a) The state Medicaid Fraud Control Unit and to the Office of the Attorney General of all reports of alleged fraud and abuse by providers or recipients participating in the Medical Assistance Program; and</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(b) Other agencies and licensure boards of all reports relevant to their jurisdiction.</p> <p>(3) The Office of the Inspector General in the Cabinet for Health and Family Services, jointly with the state Medicaid Fraud Control Unit and the Office of the Attorney General, shall prepare a Medicaid fraud and abuse report, for the prior fiscal year, categorized by types of fraud and abuse and by recipient and provider group. This report shall be submitted no later than July 1 of each year to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Health and Welfare and shall identify:</p> <p>(a) The number and type of reports received in the Office of the Inspector General in the Cabinet for Health and Family Ser-vices, from the Medicaid fraud and abuse hotline categorized by recipient and provider groups;</p> <p>(b) The number and type of alleged Medicaid fraud and abuse reports which were discovered by, received by, or referred to the Office of the Attorney General, the state Medicaid Fraud Control Unit, the Office of the Inspector General, and the Department for Medicaid Services; the number and type of reports which were opened for investigation by the Office of the Attorney General, the state Medicaid Fraud Control Unit, the Department for Medicaid Services, or the Office of the Inspector General and their disposition including:</p> <ol style="list-style-type: none"><li>1. Administrative actions taken;</li><li>2. Criminal penalties and civil payments received;</li><li>3. The amount of state and federal funds involved in the alleged fraud and abuse;</li><li>4. The cost of administering the hotline; and</li><li>5. Recommendations for legislative action to prevent, detect, and prosecute medical assistance abuse and fraud in the Commonwealth.</li></ol> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 17, effective July 15, 1994; 1994, ch. 316, § 17, effective July 15, 1994; 1998, ch. 426, § 234, effective July 15, 1998; 2005, ch. 99, § 287, effective June 20, 2005.)</p> <p><b>907 KAR 1:671. Conditions of Medicaid provider participation; withholding overpayments, administrative appeal process, and sanctions.</b><br/><a href="https://apps.legislature.ky.gov/law/kar/907/001/671.pdf">https://apps.legislature.ky.gov/law/kar/907/001/671.pdf</a></p> <p><b>907 KAR 1:672. Provider enrollment, disclosure, and documentation for Medicaid participation</b><br/><a href="https://apps.legislature.ky.gov/law/kar/907/001/672.pdf">https://apps.legislature.ky.gov/law/kar/907/001/672.pdf</a></p> <p><b>907 KAR 1:673. Claims Processing</b><br/><a href="https://apps.legislature.ky.gov/law/kar/907/001/673.pdf">https://apps.legislature.ky.gov/law/kar/907/001/673.pdf</a></p> <p><b>907 KAR 1:675. Program Integrity</b><br/><a href="https://apps.legislature.ky.gov/law/kar/907/001/675.pdf">https://apps.legislature.ky.gov/law/kar/907/001/675.pdf</a></p> <p>KRS § 205.211<br/><b>Secretary to correct any underpayment or overpayment of public assistance benefits</b><br/><a href="https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=7658">https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=7658</a></p> <p><b>Qui Tam Actions &amp; Remedies</b></p> <p>None</p> <p><b>Whistle-blower Protections</b></p> <p><b>KRS § 205.8465 - Mandatory reporting of violations -- Confidentiality -- Prohibition against employer discrimination or retaliation.</b></p> <p>(1) Any person who knows or has reasonable cause to believe that a violation of this chapter has been or is being committed by any person, corporation, or entity, shall report or cause to be reported to the state Medicaid Fraud Control Unit, or the Medicaid Fraud and Abuse hotline, the following information, if known:</p> <ol style="list-style-type: none"><li>(a) The name and address of the offender;</li><li>(b) The offender's place of employment;</li><li>(c) The nature and extent of the violation;</li><li>(d) The identity of the complainant; and</li><li>(e) Any other information that the receiving person reasonably believes might be helpful in investigation of the alleged fraud, abuse, or misappropriation.</li></ol> <p>The state Medicaid Fraud Control Unit shall periodically publicize the provisions of this subsection.</p> |

| State /Citation                                                                                                                                                                                                   | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                                                                                                                                                                                                                   | <p>(2) The identity of any person making a report under this section shall be considered confidential by the receiving party. Any person making a report under this section regarding the offenses of another shall not be liable in any civil or criminal action based on the report if it was made in good faith.</p> <p>(3) No employer shall, without just cause, discharge or in any manner discriminate or retaliate against any person who in good faith makes a report required or permitted by KRS 205.8451 to 205.8483, testifies, or is about to testify, in any proceeding with regard to any report or investigation. Any individual injured by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations, and to recover the actual damages sustained, together with the costs of the lawsuit, including a reasonable fee for the individual's attorney of record.</p> <p>(4) No employee of the state Medicaid Fraud Control Unit, the Office of the Attorney General, the Office of the Inspector General, or the Cabinet for Health and Family Services shall notify the alleged offender of the identity of the person who in good faith makes a report required or permitted by KRS 205.8451 to 205.8483 nor shall the employee notify the alleged offender that a report has been made alleging a violation of KRS 205.8451 to 205.8483 until such time as civil or criminal proceedings have been initiated or a formal investigation has been initiated. Any information or report concerning an alleged offender shall be considered confidential in accordance with the Kentucky Open Records Law, KRS 61.870 to 61.884.</p> <p>HISTORY: (Enact. Acts 1994, ch. 96, § 8, effective July 15, 1994; 1994, ch. 316, § 8, effective July 15, 1994; 1998, ch. 426, § 227, effective July 15, 1998; 2005, ch. 99, § 280, effective June 20, 2005.)</p> <p>KRS § 61.102<br/><b>Reprisal against public employee for disclosure of violations of law prohibited -- Construction of statute. -</b><br/><a href="https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=40158">https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=40158</a></p> <p>KRS § 216B.165<br/><b>Duty to report quality of care and safety problems -- Investigation and report -- Prohibition against retaliation.</b><br/><a href="https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=9230">https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=9230</a></p> |
| <u>Louisiana/</u><br><br>La. R.S. 14:70.1<br><br>La. R.S. 22:1923<br><br>La. R.S. 46:437.1 <i>et seq</i><br><br>La. R.S. 46:438.3 <i>et seq.</i><br><br>La. R.S. 46:439.1 <i>et seq.</i><br><br>La. R.S. 46:440.3 | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="http://ldh.la.gov/index.cfm/page/219">http://ldh.la.gov/index.cfm/page/219</a><br/><a href="https://www.lamedicaid.com/provweb1/about_medicaid/fraud.htm">https://www.lamedicaid.com/provweb1/about_medicaid/fraud.htm</a><br/><a href="https://ldh.la.gov/assets/medicaid/StatePlan/Sec4/Attachment4.42A.pdf">https://ldh.la.gov/assets/medicaid/StatePlan/Sec4/Attachment4.42A.pdf</a></p> <p>La. R.S. 14:70.1 -. Medicaid fraud</p> <p><b>A.</b> 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 Department of Health and Hospitals or any other state agency, does any of the following:</p> <p>    <b>(1)</b> Presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise.</p> <p>    <b>(2)</b> Knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise.</p> <p>    <b>(3)</b> Knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise.</p> <p><b>B.</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.</p> <p><b>C.</b> In addition to the venue established by <a href="#">Code of Criminal Procedure Articles 611</a> and <a href="#">614</a>, venue shall also be appropriate in the Nineteenth Judicial District Court, parish of East Baton Rouge.</p> <p><b>📌History:</b> <a href="#">Acts 1989, No. 300</a>, § 1, eff. July 1, 1989; <a href="#">Acts 1997, No. 1018</a>, § 1; <a href="#">Acts 2001, No. 403</a>, § 1, eff. June 15, 2001; <a href="#">Acts 2015, No. 138</a>, § 1, eff. June 19, 2015.</p> <p>TITLE 22. INSURANCE<br/>CHAPTER 7. FRAUD AND UNFAIR TRADE PRACTICES<br/>PART 2. INSURANCE FRAUD</p> <p>La. R.S. 22:1923 - Definitions<br/>LSA-R.S. 22:1923<br/>As used in this Part, the following terms shall have the meanings indicated in this Section:</p>                                                                                                                                                        |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>(2) “Fraudulent insurance act” shall include but not be limited to acts or omissions committed by any person who, knowingly and with intent to defraud:</p> <p>(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:</p> <p>(i) An application for the issuance of any insurance policy.</p> <p>(ii) The rating of any insurance policy.</p> <p>(iii) A claim for payment or benefit pursuant to any insurance policy.</p> <p>(iv) Premiums paid on any insurance policy.</p> <p>(v) Payments made in accordance with the terms of any insurance policy.</p> <p>(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.</p> <p>(vii) The financial condition of any insurer, reinsurer, purported insurer or reinsurer.</p> <p>(viii) The acquisition of any insurer or reinsurer.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(i) The transaction of insurance or reinsurance.</p> <p>(ii) The conduct of business activities by an insurer, reinsurer, or other entity regulated by the insurance laws of this state.</p> <p>(iii) The formation, acquisition, or dissolution of an insurer, reinsurer, or other entity regulated under the insurance laws of this state.</p> <p>(e) Supplies false or fraudulent material information pertaining to any document or statement required by the Department of Insurance.</p> <p>(f) Commits any fraudulent viatical settlement act, as defined by <a href="#">R.S. 22:1791</a>.</p> <p>(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, <a href="#">R.S. 22:431 et seq.</a>, and Part III of this Chapter, <a href="#">R.S. 22:1941 et seq.</a></p> <p>(h) Manufactures, sells, distributes, presents, or causes to be presented a fraudulent proof of insurance card or document.</p> <p>(i) Alters a legitimate proof of insurance card or document.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(o) Acts in violation of any of the following provisions of law related to public adjusters and public adjusting:</p> <p>(i) <a href="#">R.S. 22:1693(B)</a>.</p> <p>(ii) <a href="#">R.S. 22:1703</a>.</p> <p>(iii) <a href="#">R.S. 22:1704</a>.</p> <p>(iv) <a href="#">R.S. 22:1705</a>.</p> <p>(v) <a href="#">R.S. 22:1706</a>.</p> <p>(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.</p> <p>Credits</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>Renumbered from <a href="#">R.S. 22:1242</a> by <a href="#">Acts 2008, No. 415, § 1, eff. Jan. 1, 2009</a>. Added by <a href="#">Acts 1992, No. 707, § 2</a>. Amended by <a href="#">Acts 1993, No. 663, § 2, eff. June 16, 1993</a>; <a href="#">Acts 2004, No. 498, § 1</a>; <a href="#">Acts 2008, No. 15, § 1</a>; <a href="#">Acts 2011, No. 8, § 1, eff. June 7, 2011</a>; <a href="#">Acts 2012, No. 271, § 1</a>; <a href="#">Acts 2012, No. 862, § 1</a>; <a href="#">Acts 2014, No. 116, § 1</a>; <a href="#">Acts 2016, No. 4, § 1</a>; <a href="#">Acts 2019, No. 83, § 1, eff. July 1, 2019</a>.</p> <p>LOUISIANA REVISED STATUTES<br/>TITLE 22. INSURANCE<br/>CHAPTER 7. FRAUD AND UNFAIR TRADE PRACTICES<br/>PART 2-A. SLEDGE JEANSONNE LOUISIANA INSURANCE FRAUD PREVENTION ACT<br/><b><i>La. R.S. 22:1931 - Legislative findings; short title</i></b><br/>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.<br/><br/>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.<br/><br/>C. This Part shall be known and may be cited as the "Sledge Jeansonne Louisiana Insurance Fraud Prevention Act".<br/><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b><i>La. R.S. 22:1931.1 - Definitions</i></b><br/>As used in this Part the following terms shall have the following meanings unless a different meaning is clearly required by context:<br/><br/>(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.<br/><br/>(2) "Attorney general" means the attorney general for the state of Louisiana.<br/><br/>(3) "Department" means the Department of Insurance.<br/><br/>(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.<br/><br/>(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.<br/><br/>(6) "Order" means a final order imposed pursuant to a civil or criminal adjudication.<br/><br/>(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.<br/><br/>(8) "P.O.S.T.- certified" means peace officer standards and training certified as established by the Louisiana Peace Officer Standards and Training Council.<br/><br/>(9) "Property" means any and all property, movable and immovable, corporeal and incorporeal.<br/><br/>(10) "Recovery" means the recovery of attempted benefits pursued, overpayments, damages, fines, penalties, costs, expenses, restitution, attorney fees, interest, or settlement amounts.<br/><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b><i>La. R.S. 22:1931.2 - Prescription</i></b><br/>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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>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 <i>42 U.S.C. 1396</i> et seq., the provisions of this Part shall not apply.</p> <p>C. An action by a prevailing defendant to recover costs, expenses, fees, and attorney fees pursuant to <i>R.S. 22:1931.3</i> 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.</p> <p>D. (1) In the case of a civil judgment rendered in federal court, the action for recovery of the civil monetary penalty pursuant to <i>R.S. 22:1931.6</i> 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.</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b><i>La. R.S. 22:1931.3 - Civil actions authorized</i></b></p> <p>A. No person shall knowingly commit any fraudulent insurance act as defined in <i>R.S. 22:1923</i> or violate any provision of <i>R.S. 22:1924</i>.</p> <p>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 <i>R.S. 22:1924</i>. Each violation may be treated as a separate violation or may be combined into one violation at the option of the attorney general.</p> <p>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.</p> <p>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:</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b><i>La. R.S. 22:1931.4 - Burden of proof; prima facie evidence; standard of review</i></b></p> <p>A. The burden of proof in an action instituted pursuant to this Part shall be a preponderance of the evidence.</p> <p>B. Proof by a preponderance of the evidence of a violation of <i>R.S. 22:1924</i> 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 <i>R.S. 22:1924</i>.</p> <p>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.</p> <p><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b><i>La. R.S. 22:1931.5 - Civil monetary penalty</i></b></p> |

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|                 | <p>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:</p> <p>(1) Any person determined by a court of competent jurisdiction to have violated any provision of R.S. 22:1924.</p> <p>(2) Any person who has violated a settlement agreement entered into pursuant to this Part.</p> <p>(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.</p> <p>(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.</p> <p><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b>La. R.S. 22:1931.6 - Recovery</b></p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>(2) All awards of costs, expenses, fees, and attorney fees are subject to review by the appellate court for abuse of discretion.</p> <p>(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.</p> <p>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.</p> <p>(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.</p> <p><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b>La. R.S. 22:1931.7 - Waiver; extenuating circumstances</b></p> <p>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:</p> <p>(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.</p> <p>(2) The violator cooperated fully with all federal or state investigations concerning the specific allegation.</p> <p>(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.</p> <p><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> |


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|                 | <p><b><i>La. R.S. 22:1931.8 - Deposit of monies collected</i></b></p> <p>All monies collected pursuant to this Part shall be dedicated to and deposited into the Insurance Fraud Investigation Fund pursuant to <i>R.S. 40:1428(C)</i>. 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.</p> <p><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b><i>La. R.S. 22:1931.9 - Assessment reduction or recalculation</i></b></p> <p>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 <i>R.S. 40:1428</i>.</p> <p><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b><i>La. R.S. 22:1931.10 - Civil investigative demand</i></b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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 <i>Federal Rule of Civil Procedure 34</i> as it exists now or is hereafter amended.</p> <p><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b><i>La. R.S. 22:1931.11 - Investigative deposition</i></b></p> <p>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 <i>R.S. 22:1931.10</i>. 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</p> |




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|                 | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.<br/><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p><b><i>La. R.S. 22:1931.12 - Asset forfeiture</i></b></p> <p>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:</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>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.</p> <p>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.<br/><b>HISTORY:</b> Acts 2012, No. 862, § 1, eff. Aug. 1, 2012.</p> <p>Title 22. Insurance<br/>Chapter 7. Fraud and Unfair Trade Practices<br/>Part 2-A. SLEDGE JEANSONNE LOUISIANA INSURANCE FRAUD PREVENTION ACT<br/><a href="https://www.legis.la.gov/Legis/ViewDocument.aspx?d=812569">https://www.legis.la.gov/Legis/ViewDocument.aspx?d=812569</a></p> <p>La. R.S. § 22:1931.13 - <b>Termination of Part. [Effective until August 2, 2018]</b><br/>This Part shall terminate on August 1, 2018.<br/><b>History:</b> <a href="#">Acts 2012, No. 862</a>, § 1, eff. Aug. 1, 2012; <a href="#">Acts 2014, No. 129</a>, § 1, eff. Aug. 1, 2014; <a href="#">Acts 2016, No. 193</a>, § 2, eff. Aug. 1, 2016.</p> <p>-----<br/>La. R.S. 46:437.1<br/>This Part may be cited as the "<b>Medical Assistance Programs Integrity Law</b>"</p> <p>La. R.S. 46:437.3 – Definitions<br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100859">http://legis.la.gov/Legis/Law.aspx?d=100859</a></p> |

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|                 | <p>As used in this Part the following terms shall have the following meanings:</p> <p>(1) "Administrative adjudication" means adjudication and the adjudication process contained in the Administrative Procedure Act.</p> <p>(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.</p> <p>(3) "Billing agent" means an agent who performs any or all of the health care provider's billing functions.</p> <p>(4) "Billing" or "bills" means submitting, or attempting to submit, a claim for goods, services, or supplies.</p> <p>(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:</p> <p>(a) Presented to an officer, employee, or agent of the state or department.</p> <p>(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:</p> <p>(i) Provides or has provided any portion of the money or property requested or demanded.</p> <p>(ii) Reimburses the contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.</p> <p>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.</p> <p>(6) "Department" means the Department of Health and Hospitals.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(10) "Ineligible recipient" means an individual who is not eligible to receive health care through the medical assistance programs.</p> <p>(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.</p> <p>(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.</p> <p>(13) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>(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</p> |

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|                 | <p>which provide payment to health care providers.</p> <p>(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.</p> <p>(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.</p> <p>(17) "Order" means a final order imposed pursuant to an administrative adjudication.</p> <p>(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.</p> <p>(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.</p> <p>(20) "Property" means any and all property, movable and immovable, corporeal and incorporeal.</p> <p>(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.</p> <p>(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.</p> <p>(23) "Recipient" means an individual who is eligible to receive health care through the medical assistance programs.</p> <p>(24) "Recoupment" means recovery through the reduction, in whole or in part, of payment to a health care provider.</p> <p>(25) "Recovery" means the recovery of overpayments, damages, fines, penalties, costs, expenses, restitution, attorney fees, or interest or settlement amounts.</p> <p>(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.</p> <p>(27) "Sanction" shall include but is not limited to any or all of the following:</p> <p>(a) Recoupment.</p> <p>(b) Posting of bond, other security, or a combination thereof.</p> <p>(c) Exclusion as a health care provider.</p> <p>(d) A monetary penalty.</p> <p>(28) "Secretary" means the secretary of the Department of Health and Hospitals, or his authorized designee.</p> <p>(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.</p> |


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|                 | <p>(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.</p> <p><b>History:</b> <a href="#">Acts 1997, No. 1373</a>, § 1; <a href="#">Acts 2011, No. 185</a>, §§ 1, 3, eff. Aug. 15, 2011.</p> <p><b>La. R.S. 46:437.4 - Claims review and administrative sanctions</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100860">http://legis.la.gov/Legis/Law.aspx?d=100860</a></p> <p><b>A. (1)</b> 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.</p> <p>(2) Claims review may occur prior to or after payment is made to a health care provider.</p> <p>(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.</p> <p>(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.</p> <p><b>B.</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.</p> <p><b>C. (1)</b> 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.</p> <p>(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.</p> <p>(3) Judicial review of the order shall be conducted in compliance with the Administrative Procedure Act.</p> <p><b>D.</b> 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.</p> <p><b>History:</b> <a href="#">Acts 1997, No. 1373</a>, § 1; <a href="#">Acts 2016, No. 467</a>, § 1, eff. Aug. 1, 2016.</p> <p><b>La. R.S. 46:437.14 - Grounds for denial or revocation of enrollment</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100857">http://legis.la.gov/Legis/Law.aspx?d=100857</a></p> <p><b>A.</b> 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:</p> <p>(1) Misrepresentation.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>(5) Conviction under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.</p> <p>(6) Conviction under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.</p> <p>(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 infirmities.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(11) Failure to pay recovery properly assessed or pursuant to an approved repayment schedule under the medical assistance programs.</p> <p>(12) Failure to meet any condition of enrollment.</p> <p><b>B.</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:</p> <p>(1) The goods, services, or supplies provided were otherwise compensable.</p> <p>(2) The person met all other requirements of a health care provider at the time the goods, services, or supplies were provided.</p> <p>(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.</p> <p><b>History:</b> <a href="#"><i>Acts 1997, No. 1142</i></a>, § 2; <a href="#"><i>Acts 2014, No. 811</i></a>, § 24, eff. June 23, 2014.</p> <p><b>La. R.S. 46:438.1 - Civil actions authorized</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100866">http://legis.la.gov/Legis/Law.aspx?d=100866</a></p> <p><b>A.</b> 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.</p> <p><b>B.</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.</p> <p><b>C. (1)</b> 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:</p> <p>(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.</p> <p>(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.</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>(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.</p> <p>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 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.</p> <p><b>History:</b> HISTORY: <a href="#">Acts 1997, No. 1373</a>, § 1; <a href="#">Acts 2014, No. 711</a>, § 1, eff. Aug. 1, 2014.</p> <p><b>La. R.S. 46:438.2 - Illegal remuneration</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100867">http://legis.la.gov/Legis/Law.aspx?d=100867</a></p> <p>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:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(4) To obtain a recipient list, number, name, or any other identifying information.</p> <p>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".</p> <p>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.</p> <p>D. The following are "safe harbor" exceptions to which the provisions of this Section shall not apply:</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(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.</p> <p>(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.</p> <p>(4) Any other "safe harbor" exception created by federal or state law or by rule.</p> <p><b>History:</b> <a href="#">Acts 1997, No. 1373</a>, § 1.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p><b>La. R.S. 46:438.3 - False or fraudulent claim; misrepresentation</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100868">http://legis.la.gov/Legis/Law.aspx?d=100868</a></p> <p>A. No person shall knowingly present or cause to be presented a false or fraudulent claim.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>(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.</p> <p>(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 <a href="#">R.S. 9:2794</a>.</p> <p>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.</p> <p>G. No action shall be brought under this Section unless the amount of alleged actual damages is one thousand dollars or more.</p> <p>H. No action brought pursuant to this Section shall be instituted later than ten years after the date upon which the alleged violation occurred.</p> <p>📖<b>History:</b> <a href="#">Acts 1997, No. 1373</a>, § 1, eff. Aug. 15, 1997; <a href="#">Acts 2007, No. 14</a>, § 1, eff. June 18, 2007; <a href="#">Acts 2009, No. 426</a>, § 1, eff. Aug. 15, 2009; <a href="#">Acts 2011, No. 185</a>, § 1, eff. Aug. 15, 2011.</p> <p><b>La. R.S. 46:438.4 - Illegal acts regarding eligibility and recipient lists</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100869">http://legis.la.gov/Legis/Law.aspx?d=100869</a></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>📖<b>History:</b> Acts 1997, No. 1373, § 1.</p> <p><b>La. R.S. 46:438.5 - Civil monetary penalty</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100870">http://legis.la.gov/Legis/Law.aspx?d=100870</a></p> <p>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 <a href="#">R.S. 46:438.6(C)</a> from any of the following:</p> <p>(1) A health care provider or other person sanctioned by order pursuant to an administrative adjudication.</p> |





| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(2) A health care provider or other person determined by a court to have violated any provision of this Part.</p> <p>(3) A health care provider or other person who has violated a settlement agreement entered into pursuant to this Part.</p> <p>(4) A health care provider or other person who has been charged with a violation of <a href="#">R.S. 14:70.1</a>, <a href="#">R.S. 14:133</a>, or <a href="#">R.S. 46:114.2</a>.</p> <p>(5) A health care provider or other person who has been found liable in a civil action filed in federal court pursuant to <a href="#">18 U.S.C. 1347</a>, et seq., <a href="#">42 U.S.C. 1359m</a>(h)(6), or <a href="#">42 U.S.C. 1320a-7</a>(b).</p> <p>(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.</p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p> <b>History:</b> <i>Acts 1997, No. 1373, § 1.</i></p> <p><b>La. R.S. 46:438.6 - Recovery</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100871">http://legis.la.gov/Legis/Law.aspx?d=100871</a></p> <p>A. <i>Actual damages.</i> --(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.</p> <p>(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 <a href="#">R.S. 13:4202</a> from the date the damage occurred to the date of repayment.</p> <p>(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.</p> |

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|                 | <p>B. <i>Civil fine.</i> --(1) Any person who is found to have violated <a href="#">R.S. 46:438.2</a> 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.</p> <p>(2) Except as limited by this Section, any person who is found to have violated <a href="#">R.S. 46:438.3</a> 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.</p> <p>C. <i>Civil monetary penalty.</i> --(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:</p> <p>(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 <a href="#">R.S. 46:438.2</a>, 438.3, or 438.4.</p> <p>(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 <a href="#">R.S. 13:4202</a> from the date the damage occurred to the date of repayment.</p> <p>(2) Prior to the imposition of a civil monetary penalty, the court shall consider if there are extenuating circumstances as provided in <a href="#">R.S. 46:438.7</a>.</p> <p>(3) The penalties provided in this Subsection shall be adjusted according to the Federal Civil Penalties Inflation Adjustment Act of 1990, <a href="#">28 U.S.C. 2461</a>.</p> <p>D. <i>Costs, expenses, fees, and attorney fees.</i> --(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.</p> <p>(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.</p> <p>(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.</p> <p>E. <i>Damages.</i> --(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.</p> <p>(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.</p> <p>📌<b>History:</b> <a href="#">Acts 1997, No. 137</a>3, § 1, eff. Aug. 15, 1997; <a href="#">Acts 2007, No. 14</a>, § 1, eff. June 18, 2007; <a href="#">Acts 2011, No. 185</a>, § 1, eff. Aug. 15, 2011.</p> <p><b>La. R.S. 46:438.7 - Reduced damages</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100872">http://legis.la.gov/Legis/Law.aspx?d=100872</a></p> <p>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:</p> <p>(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.</p> <p>(2) The violator cooperated fully with all federal or state investigations concerning the specific allegation.</p> <p>(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>to the alleged violation.</p> <p> <b>History:</b> <a href="#">Acts 1997, No. 1373</a>, § 1; <a href="#">Acts 2011, No. 185</a>, § 1, eff. Aug. 15, 2011.</p> <p>-----</p> <p>Louisiana Revised Statutes<br/>Title 22. Insurance<br/>Chapter 2. Requirements for insurers and other risk bearing entities<br/>Part 3. Financial solvency and reporting requirements<br/>Subpart A. Financial reporting requirements</p> <p>L.a. R.S. § 22:572.1 - <b>Insurance anti-fraud plan</b></p> <p><b>A.</b> Each authorized insurer, other than a "small company" as defined in <a href="#">R.S. 22:46</a>, 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.</p> <p><b>B.</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:</p> <p>    <b>(1)</b> 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.</p> <p>    <b>(2)</b> Educate employees on fraud detection and the insurance anti-fraud plan.</p> <p>    <b>(3)</b> Provide for fraud investigations, whether through the use of internal fraud investigators or third-party contractors.</p> <p>    <b>(4)</b> Report a suspected fraudulent insurance act, as defined by <a href="#">R.S. 22:1923 (2)</a>, to the Department of Insurance as well as law enforcement and other regulatory authorities engaged in the investigation and prosecution of insurance fraud.</p> <p>    <b>(5)</b> Pursue restitution for financial loss caused by insurance fraud.</p> <p><b>C.</b> 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.</p> <p><b>D.</b> 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.</p> <p><b>E.</b> 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.</p> <p><b>F.</b> The insurance anti-fraud plan and any summary report shall be filed with the commissioner on or before April first of each calendar year. 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 the commissioner may prescribe the format of the summary report.</p> <p><b>G.</b> The insurance anti-fraud plan and any summary report required by this Section are not public records and are exempt pursuant to <a href="#">R.S. 44:1</a> et seq., and specifically <a href="#">R.S. 44:1(B) (11)</a>, shall be and are hereby declared to be proprietary and confidential business records not subject to public examination or subpoena.</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p><b>History:</b> <a href="#">Acts 2010, No. 688</a>, § 1, eff. Jan. 1, 2011; <a href="#">Acts 2014, No. 121</a>, § 1, eff. Aug. 1, 2014.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                 | <p>La. R.S. 46:439.1</p> <p><b>§ 46:439.1. Qui tam action, civil action filed by private person</b></p> <p><a href="http://legis.la.gov/Legis/Law.aspx?d=100874">http://legis.la.gov/Legis/Law.aspx?d=100874</a></p> <p>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 <a href="#">R.S. 46:438.2</a>, 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".</p> <p>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.</p> <p>C. The burden of proof in a qui tam action instituted pursuant to this Subpart shall be the same as that set forth in <a href="#">R.S. 46:438.8</a>.</p> <p>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:</p> <p>(a) A criminal, civil, or administrative hearing in which the government or its agent is a party.</p> <p>(b) A congressional or government accountability office or other federal report, hearing, audit, or investigation.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>(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.</p> <p>(2) A civil action in accordance with this Section may not be brought more than three years after the date the retaliation occurred.</p> <p>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.</p> <p>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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p>H., I. Repealed by <a href="#">Acts 2011, No. 185</a>, § 2, effective August 15, 2011.</p> <p>📌History: <a href="#">Acts 1997, No. 137</a>3, § 1, Aug. 15, 1997; <a href="#">Acts 2009, No. 426</a>, § 1, eff. Aug. 15, 2009; <a href="#">Acts 2011, No. 185</a>, §§ 1, 2, eff. Aug. 15, 2011.</p> <p><b>La. R.S. 46:439.2 - Qui tam action procedures</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100875">http://legis.la.gov/Legis/Law.aspx?d=100875</a></p> <p>A. The following procedures shall be applicable to a qui tam action:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>C. Repealed by <a href="#">Acts 2011, No. 185</a>, § 2, effective August 15, 2011.</p> <p>D. A defendant shall have thirty days from the time a qui tam complaint is served on him to file a responsive pleading.</p> |

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|                 | <p>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.</p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p> <b>History:</b> <a href="#">Acts 1997, No. 1373</a>, § 1, eff. Aug. 15, 1997; <a href="#">Acts 2007, No. 14</a>, § 1, eff. June 18, 2007; <a href="#">Acts 2009, No. 426</a>, § 1, eff. Aug. 15, 2009; <a href="#">Acts 2011, No. 185</a>, §§ 1, 2, eff. Aug. 15, 2011.</p> <p><b>La. R.S. 46:439.3 - Qui tam action procedures; alternative remedies</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100876">http://legis.la.gov/Legis/Law.aspx?d=100876</a></p> <p>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.</p> <p> <b>History:</b> <a href="#">Acts 1997, No. 1373</a>, § 1, Aug. 15, 1997; <a href="#">Acts 2009, No. 426</a>, § 1, eff. Aug. 15, 2009.</p> <p><b>La. R.S. 46:439.4</b><br/><b>Recovery awarded to a qui tam plaintiff</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100877">http://legis.la.gov/Legis/Law.aspx?d=100877</a></p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>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.</p> <p>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>⬆History: <a href="#">Acts 1997, No. 1373</a>, § 1, eff. Aug. 15, 1997; <a href="#">Acts 2007, No. 14</a>, § 1, eff. June 18, 2007; <a href="#">Acts 2009, No. 426</a>, § 1, eff. Aug. 15, 2009; <a href="#">Acts 2011, No. 185</a>, § 1, eff. Aug. 15, 2011.</p> <p><b>La. R.S. 46:440.2 - Rewards for fraud and abuse information</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100879">http://legis.la.gov/Legis/Law.aspx?d=100879</a></p> <p>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.</p> <p>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.</p> <p>⬆History: <a href="#">Acts 1997, No. 1373</a>, § 1.</p> |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                 | <p><b>La. R.S. 46:439.1(E)</b><br/><b>§ 46:439.1. Qui tam action, civil action filed by private person</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?p=yc&amp;d=100874">http://legis.la.gov/Legis/Law.aspx?p=yc&amp;d=100874</a></p> <p>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.</p> <p>(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.</p> <p>(2) A civil action in accordance with this Section may not be brought more than three years after the date the retaliation occurred.</p> <p>H., I. Repealed by <a href="#">Acts 2011, No. 185</a>, § 2, effective August 15, 2011.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                 | <p><b>La. R.S. 46:440.3</b><br/><b>Whistleblower protection and cause of action.</b><br/><a href="http://legis.la.gov/Legis/Law.aspx?d=100880">http://legis.la.gov/Legis/Law.aspx?d=100880</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |



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|                 | <p>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.</p> <p>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.</p> <p>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.</p> <p>(2) A person aggrieved of a violation of Subsection A or B of this Section shall be entitled to exemplary damages.</p> <p>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.</p> <p>History: <i>Acts 1997, No. 1373</i>, § 1.</p> |
| <u>Maine</u>    | <b>Criminal and Civil Penalties for False Claims and Statements</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 22 M.R.S. § 15  | Other Helpful Information About Medicaid Fraud & Reporting Fraud<br><a href="https://www.maine.gov/ag/crime/crimes_we_prosecute/healthcare_crimes.shtml">https://www.maine.gov/ag/crime/crimes_we_prosecute/healthcare_crimes.shtml</a><br><a href="https://www.maine.gov/audit/fraud/index.html">https://www.maine.gov/audit/fraud/index.html</a><br><a href="https://www.maine.gov/audit/fraud/guide.html">https://www.maine.gov/audit/fraud/guide.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 26 M.R.S. § 833 | 22 M.R.S. § 15<br>Civil liability of persons making false claims<br><a href="http://www.mainelegislature.org/legis/statutes/22/title22sec15.html">http://www.mainelegislature.org/legis/statutes/22/title22sec15.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                 | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                 | <a href="https://www.maine.gov/audit/fraud/wpa.html">https://www.maine.gov/audit/fraud/wpa.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                 | 26 M.R.S. § 831<br>Short Title<br><a href="http://www.mainelegislature.org/legis/statutes/26/title26sec831.html">http://www.mainelegislature.org/legis/statutes/26/title26sec831.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                 | 26 M.R.S. § 832<br>Definitions<br><a href="http://www.mainelegislature.org/legis/statutes/26/title26sec832.html">http://www.mainelegislature.org/legis/statutes/26/title26sec832.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                 | 26 M.R.S. § 833<br>Discrimination against certain employees prohibited.<br><a href="http://www.mainelegislature.org/legis/statutes/26/title26sec833.html">http://www.mainelegislature.org/legis/statutes/26/title26sec833.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

| State /Citation                                                                                                                                                                                              | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| <u>Maryland</u><br>Md. HEALTH-GENERAL Code Ann. § 2-601 et seq.<br><br>Md. CRIMINAL LAW Code Ann. § 8-510 to 8-517<br><br>Md. Code Ann. §§ 8-508 to 8-517;<br><br>Md. CRIMINAL LAW Code Ann. § 8-503 et seq. | <b>Criminal and Civil Penalties for False Claims and Statements</b><br><br><i>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</i><br><i>State Bulletin/Notice - Section 6032 of the Deficit Reduction Act of 2005 – Education About False Claims Recovery</i><br><a href="https://mmcp.health.maryland.gov/docs/PT%2015-07.pdf">https://mmcp.health.maryland.gov/docs/PT%2015-07.pdf</a><br><a href="https://health.maryland.gov/oig/Pages/PI-Division.aspx">https://health.maryland.gov/oig/Pages/PI-Division.aspx</a><br><a href="http://www.marylandattorneygeneral.gov/Pages/MFCU/default.aspx">http://www.marylandattorneygeneral.gov/Pages/MFCU/default.aspx</a><br><a href="https://health.maryland.gov/oig/Pages/Report_Fraud.aspx">https://health.maryland.gov/oig/Pages/Report_Fraud.aspx</a><br><br>Maryland False Health Claims Act of 2010<br>Md. HEALTH-GENERAL Code Ann. § 2-601 - Definitions<br><a href="http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-601&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-601&amp;enactments=false</a><br><br>Md. HEALTH-GENERAL Code Ann. § 2-602 - False or fraudulent claims<br><a href="http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-602&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-602&amp;enactments=false</a><br><br>Md. HEALTH-GENERAL Code Ann. § 2-603 – Civil Action<br><a href="http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-603&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-603&amp;enactments=false</a><br><br>Md. CRIMINAL LAW Code Ann. § 8-508<br>Definitions<br><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-508&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-508&amp;enactments=false</a><br><br>Md. CRIMINAL LAW Code Ann. § 8-509<br>Prohibited -- Defrauding State health plan<br><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-509&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-509&amp;enactments=false</a><br><br>Md. CRIMINAL LAW Code Ann. § 8-510 - Same – Conversion<br><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-510&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-510&amp;enactments=false</a><br><br>Md. CRIMINAL LAW Code Ann. § 8-511 – Same – Bribe or Kickback<br><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-511&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-511&amp;enactments=false</a><br><br>Md. CRIMINAL LAW Code Ann. § 8-512 – Same – Referral Rebate<br><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-512&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-512&amp;enactments=false</a><br><br>Md. CRIMINAL LAW Code Ann. § 8-513 – Same – False Representation for Qualification<br><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-513&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-513&amp;enactments=false</a><br><br>Md. CRIMINAL LAW Code Ann. § 8-514 – |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>Same -- Obtaining benefit by fraud<br/><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-514&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-514&amp;enactments=false</a></p> <p>Md. CRIMINAL LAW Code Ann. § 8-515<br/>Unauthorized Possession of Benefit Card<br/><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-515&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-515&amp;enactments=false</a></p> <p>Md. CRIMINAL LAW Code Ann. § 8-516<br/>Criminal penalty<br/><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-516&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-516&amp;enactments=false</a></p> <p>CRIMINAL LAW<br/>TITLE 8. FRAUD AND RELATED CRIMES<br/>SUBTITLE 5. PUBLIC FRAUD<br/>PART II. MEDICAID FRAUD</p> <p>Md. CRIMINAL LAW Code Ann. § 8-516</p> <p>THIS SECTION HAS MORE THAN ONE DOCUMENT WITH VARYING EFFECTIVE DATES.</p> <p><b>§ 8-516. Criminal penalty</b></p> <p>Violation resulting in death<br/>(a) If a violation of this part results in the death of an individual, a person who violates a provision of this part is guilty of a felony and on conviction is subject to imprisonment not exceeding life or a fine not exceeding \$200,000 or both.</p> <p>Violation resulting in serious injury<br/>(b) If a violation of this part results in serious injury to an individual, a person who violates a provision of this part is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding \$100,000 or both.</p> <p>Violation involving at least \$500<br/>(c) If the value of the money, health care services, or other goods or services involved is \$1,500 or more in the aggregate, a person who violates a provision of this part is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$100,000 or both.</p> <p>Other violations<br/>(d) A person who violates any other provision of this part is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$50,000 or both.</p> <p>Business entity violation<br/>(e)(1) In this subsection, “business entity” includes an association, firm, institution, partnership, and corporation.<br/>(2) A business entity that violates a provision of this part is subject to a fine not exceeding:<br/>(i) \$250,000 for each felony; and<br/>(ii) \$100,000 for each misdemeanor.</p> <p>Credits<br/>Added by <a href="#">Acts 2002, c. 26, § 2, eff. Oct. 1, 2002</a>. Amended by <a href="#">Acts 2013, c. 415, § 1, eff. Oct. 1, 2013</a>; <a href="#">Acts 2016, c. 515, § 2, eff. Oct. 1, 2017</a>.</p> <p>Md. CRIMINAL LAW Code Ann. § 8-517 –<br/>Civil penalty<br/><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-517&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-517&amp;enactments=false</a></p> |

| State /Citation                                                     | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                                                                     | <p>Md. CRIMINAL LAW Code Ann. § 8-503<br/>Public assistance fraud<br/><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-503&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcr&amp;section=8-503&amp;enactments=false</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                                                     | <p><b>Qui Tam Actions &amp; Remedies</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                                     | <p>Md. HEALTH-GENERAL Code Ann. § 2-604 - <b>Private cause of action</b><br/><a href="http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-604&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-604&amp;enactments=false</a></p> <p>Md. HEALTH-GENERAL Code Ann. § 2-605 - <b>Private cause of action -- Award</b><br/><a href="http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-605&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-605&amp;enactments=false</a></p> <p>Md. HEALTH-GENERAL Code Ann. § 2-606 - <b>Private cause of action -- Restrictions</b><br/><a href="http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-606&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-606&amp;enactments=false</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                                                                     | <p><b>Whistle-blower Protections</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                     | <p>Md. HEALTH-GENERAL Code Ann. § 2-607 – <b>Retaliatory action</b><br/><a href="http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-607&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-607&amp;enactments=false</a></p> <p>Md. HEALTH-GENERAL Code Ann. § 2-608 - <b>Notice of protections and obligations</b><br/><a href="http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-608&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-608&amp;enactments=false</a></p> <p><i>Health Care Worker Whistleblower Protection Act</i><br/>Md. HEALTH OCCUPATIONS Code Ann. § 1-501 et seq.<br/><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gho&amp;section=1-501&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gho&amp;section=1-501&amp;enactments=false</a></p> <p>Md. HEALTH OCCUPATIONS Code Ann. § 1-502<br/>§ 1-502. Prohibited acts<br/><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gho&amp;section=1-502&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gho&amp;section=1-502&amp;enactments=false</a></p> <p>Md. HEALTH OCCUPATIONS Code Ann. § 1-503<br/>§ 1-503. Requirements for Protection<br/><a href="http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gho&amp;section=1-503&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gho&amp;section=1-503&amp;enactments=false</a></p> <p>Md. HEALTH-GENERAL Code Ann. § 2-505<br/>§ 2-505. Civil liability<br/><a href="http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-505&amp;enactments=false">http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=ghg&amp;section=2-505&amp;enactments=false</a></p> |
| <p><i>Massachusetts/</i><br/>ALM GL ch. 12, § 5A <i>et seq.</i></p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                                                                     | <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://www.mass.gov/attorney-generals-medicaid-fraud-division">https://www.mass.gov/attorney-generals-medicaid-fraud-division</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

| State /Citation     | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                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| ALM GL ch. 12, § 5B | <p>Education About The False Claims Act @ <a href="https://www.mass.gov/doc/all-provider-bulletin-162-employee-education-about-false-claims/download?_ga=2.43824613.1158118629.1689787268-1155775702.1689787268">https://www.mass.gov/doc/all-provider-bulletin-162-employee-education-about-false-claims/download?_ga=2.43824613.1158118629.1689787268-1155775702.1689787268</a></p> <p>Civil False Claims Act (“MFCa”)<br/>MA ST 12 § 5A <i>et seq.</i><br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12</a></p> <p>MA ST 12 § 5A - <b>Definitions.</b><br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5A">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5A</a><br/><b>§ 5A. False claims; definitions applicable to Secs. 5A to 5O</b><br/><u><a href="#">Currentness</a></u><br/>As used in sections 5A to <u><a href="#">5Q</a></u>, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:--<br/>“Claim”, a request or demand, whether pursuant to a contract or otherwise, for money or property, whether or not the commonwealth or a political subdivision thereof has title to the money or property, that: (1) is presented to an officer, employee, agent or other representative of the commonwealth or a political subdivision thereof; or (2) is made to a contractor, subcontractor, grantee or other person, if the money or property is to be spent or used on behalf of or to advance a program or interest of the commonwealth or political subdivision thereof and if the commonwealth or any political subdivision thereof: (i) provides or has provided any portion of the money or property which is requested or demanded; or (ii) will reimburse directly or indirectly such contractor, subcontractor, grantee or other person for any portion of the money or property which is requested or demanded. A claim shall not include requests or demands for money or property that the commonwealth or a political subdivision thereof has paid to an individual as compensation for employment with the commonwealth or a political subdivision thereof or as an income subsidy with no restrictions on that individual's use of the money or property.<br/>“False claims action”, an action filed by the office of the attorney general or a relator under sections 5A to <u><a href="#">5Q</a></u>, inclusive.<br/>“False claims law”, sections 5A to <u><a href="#">5Q</a></u>, inclusive.<br/>“Knowing” or “knowingly”, possessing actual knowledge of relevant information, acting with deliberate ignorance of the truth or falsity of the information or acting in reckless disregard of the truth or falsity of the information; provided, however, that no proof of specific intent to defraud shall be required.<br/>“Material”, having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.<br/>“Obligation”, 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 after the deadline for reporting and returning the overpayment under paragraph (10) of <u><a href="#">section 5B</a></u>.<br/>“Original source”, an individual who: (1) prior to a public disclosure under <u><a href="#">paragraph (3) of section 5C</a></u>, has voluntarily disclosed to the commonwealth or any political subdivision thereof 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 allegations or transactions, and who has voluntarily provided the information to the commonwealth or any political subdivision thereof before filing a false claims action.<br/>“Overpayment”, any funds that a person receives or retains, including funds received or retained under Title XVIII or XIX of the Social Security Act, to which the person, after applicable reconciliation, is not entitled.<br/>“Person”, a natural person, corporation, partnership, association, trust or other business or legal entity.<br/>“Political subdivision”, a city, town, county or other governmental entity authorized or created by law, including public corporations and authorities.<br/>“Relator”, an individual who brings an action under <u><a href="#">paragraph (2) of section 5C</a></u>.<br/><b>Credits</b><br/>Added by <u><a href="#">St.2000, c. 159, § 18</a></u>. Amended by <u><a href="#">St.2012, c. 139, § 22, eff. July 1, 2012</a></u>.</p> <p>MA ST 12 § 5B – False Claims Liability<br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5B">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5B</a><br/><b>§ 5B. False claims; liability</b><br/><u><a href="#">Currentness</a></u><br/>(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) conspires to commit a violation of this subsection; (4) knowingly presents, or causes to be presented, a claim that includes items or services resulting from a violation of section 1128B of the Social Security Act, <u><a href="#">42 U.S.C. 1320a-7b</a></u>, or <u><a href="#">section 41 of chapter 118E</a></u>; (5) has possession, custody or control of property or money used, or to be used, by the commonwealth or a political subdivision thereof and knowingly delivers, or causes to be delivered, to the commonwealth or a political subdivision thereof less than all of that property or money; (6) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the commonwealth or a political subdivision thereof and, with the intent of defrauding the commonwealth or a political subdivision thereof, makes or delivers the receipt without completely knowing that the</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>information on the receipt is true; (7) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the commonwealth or a political subdivision thereof, who may not lawfully sell or pledge such property; (8) enters into an agreement, contract or understanding with an official of the commonwealth or a political subdivision thereof knowing the information contained therein is false; (9) knowingly makes, uses or causes to be made or used a false record or statement material to an obligation to pay or to transmit money or property to the commonwealth or a political subdivision thereof, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the commonwealth or a political subdivision thereof; or (10) is a beneficiary of an inadvertent submission of a false claim to the commonwealth or a political subdivision thereof, or is a beneficiary of an overpayment from the commonwealth or a political subdivision thereof, and who subsequently discovers the falsity of the claim or the receipt of overpayment and fails to disclose the false claim or receipt of overpayment to the commonwealth or a political subdivision by the later of: (i) the date which is 60 days after the date on which the false claim or receipt of overpayment was identified; or (ii) the date any corresponding cost report is due, if applicable, shall be liable to the commonwealth or political subdivision for a civil penalty of not less than \$5,500 and not more than \$11,000 per violation, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, <a href="#">Pub. L. No. 101-410 section 5</a>, 104 Stat. 891, note following <a href="#">28 U.S.C. section 2461</a>, plus 3 times the amount of damages, including consequential damages, that the commonwealth or a political subdivision thereof sustains because of such violation. A person violating sections 5B to <a href="#">5Q</a>, inclusive, shall also be liable to the commonwealth or a political subdivision thereof for the expenses of the civil action brought to recover any such penalty or damages including, without limitation, reasonable attorneys' fees, reasonable expert fees and the costs of investigation, as set forth below. Costs recoverable under said sections 5B to <a href="#">5Q</a>, inclusive, shall also include the costs of any review or investigation undertaken by the attorney general, or by the state auditor or the inspector general in cooperation with the attorney general.</p> <p>(b) Notwithstanding subsection (a), if the court finds that: (1) the person committing the violation of subsection (a) furnished an official of the office of the attorney general responsible for investigating a false claims law violation with all the information known to such person about the violation within 30 days after the date on which the person first obtained the information; (2) such person fully cooperated with any commonwealth investigation of such violation; and (3) at the time such person furnished the commonwealth with the information about the violation, no civil action or administrative action had commenced under sections 5B to <a href="#">5Q</a>, inclusive, or no criminal prosecution had commenced with respect to such violation, and such 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, including consequential damages, that the commonwealth or a political subdivision thereof sustains because of the act of that person.</p> <p>(c) A corporation, partnership or other person shall be liable to the commonwealth under sections 5B to <a href="#">5Q</a>, inclusive, for the acts of its agent where the agent acted with apparent authority, regardless of whether the agent acted, in whole or in part, to benefit the principal and regardless of whether the principal adopted or ratified the agent's claims, representation, statement or other action or conduct.</p> <p>(d) Sections 5B to <a href="#">5Q</a>, inclusive, shall not apply to claims, records or statements made or presented to establish, limit, reduce or evade liability for the payment of tax to the commonwealth or other governmental authority.</p> <p>(e) A person who has engaged in conduct described in subsection (a) prior to payment shall only be entitled to payment from the commonwealth of the actual amount due less the excess amount falsely or fraudulently claimed.</p> <p><b>Credits</b><br/>Added by <a href="#">St.2000, c. 159, § 18</a>. Amended by <a href="#">St.2012, c. 139, § 22, eff. July 1, 2012</a>.</p> <p>MA ST 12 § 5E - <b>Alternative Remedies.</b><br/>Notwithstanding the provisions of <a href="#">section 5C</a>, the attorney general may elect to pursue its claim through any alternate remedy available to the attorney general, including any administrative proceeding, to determine a civil penalty. If any such alternate remedy is pursued in another proceeding, a relator shall have the same rights in such proceeding as said relator would have had if the action had continued under said <a href="#">section 5C</a>. 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 <a href="#">sections 5B</a> to <a href="#">5Q</a>, inclusive. For purposes of this section, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the commonwealth, 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.</p> <p><b>Credits</b><br/>Added by <a href="#">St.2000, c. 159, § 18</a>.</p> <p><b>Medicaid False Claims Statute</b><br/>MA ST 118E § 39 to §46<br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter118E">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter118E</a></p> <p>MA ST 118E § 40 - False representation, failure to disclose; penalty<br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter118E/Section39">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter118E/Section39</a><br/>Any person who furnishes items or services for which payment may be made under this chapter, who: (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 this chapter; or (2) 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; or (3) having knowledge of the occurrence of any event affecting his or her initial or continued right to any such benefit or payment, or the benefit of any other individual in whose behalf he or she has applied for or is receiving such benefit or payment, conceals or fails to disclose such an 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; or (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 benefits or payment</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                                       |  |                                                                                                                                                                                                                                                                                        |
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|                 | <p>other than for the use and benefit of such person, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years, or by both such fine and imprisonment.</p> <p>Any person who does not furnish items of services for which payment may be made under this chapter, who violates any of the provisions of clauses (1) to (4), inclusive, shall be punished by imprisonment in a jail or house of correction for not more than two and one-half years or by a fine of not more than five thousand dollars or by both such fine and imprisonment.</p> <p><b>Credits</b><br/>Added by <a href="#">St.1993, c. 161, § 17.</a></p> <p>MA ST 118E § 41<br/>ALM GL ch. 118E, § 41 - Bribery or rebates; penalty<br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter118E/Section41">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter118E/Section41</a></p> <p>MA ST 118E § 42<br/>- Excess <b>Charges; Penalty.</b><br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter118E/Section42">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter118E/Section42</a></p> <p>MA ST 118E § 44<br/><b>Civil Remedies; Limitations</b><br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter118E/Section44">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVII/Chapter118E/Section44</a></p> <p><b>FALSE HEALTH CARE CLAIMS</b><br/>MA ST 175H § 1 <i>et seq</i><br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175H">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175H</a></p> <p>MA ST 175H § 1 - Definitions<br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175H/Section1">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175H/Section1</a></p> <p>MA ST 175H § 2 - False statements on applications for coverage and claims; failure to disclose<br/>False statements on applications for coverage and claims; failure to disclose<br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175H/Section2">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175H/Section2</a></p> <p>MA ST 175H § 6 - Liability for false claims; civil proceedings<br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175H/Section6">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175H/Section6</a></p> <p>MA ST 266 § 111A - Insurance policies; penalty for fraudulent claims<br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter266/Section111A">https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter266/Section111A</a></p> <p>MA ST 266 § 30 - Larceny; general provisions and penalties<br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter266/Section30">https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter266/Section30</a></p> <tr><td></td><td><b>Qui Tam Actions &amp; Remedies</b></td></tr> <tr><td></td><td>MA ST 12 § 5C - Violations under Secs. 5B to 5O; investigation by attorney general; relators; civil actions<br/><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5C">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5C</a></td></tr> |  | <b>Qui Tam Actions &amp; Remedies</b> |  | MA ST 12 § 5C - Violations under Secs. 5B to 5O; investigation by attorney general; relators; civil actions<br><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5C">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5C</a> |
|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |                                       |  |                                                                                                                                                                                                                                                                                        |
|                 | MA ST 12 § 5C - Violations under Secs. 5B to 5O; investigation by attorney general; relators; civil actions<br><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5C">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5C</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                                       |  |                                                                                                                                                                                                                                                                                        |



| State /Citation                                | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                                                | MA ST 12 § 5F - <b>Payments to relators; limitations</b><br><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5F">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5F</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                                | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                                                | MA ST 12 § 5J – <b>Employers preventing employees from acting to further false claim actions; liability</b><br><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5J">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter12/Section5J</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                | MA ST 149 § 185 - <b>Retaliation against employees reporting violations of law or risks to public health, safety or environment; remedies</b><br><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section185">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section185</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                | MA ST 149 § 187 - <b>Health care providers; protection from retaliatory action by health care facilities</b><br><a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section187">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section187</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <i>Michigan/</i><br>MCLS § 400.601-615 et seq. | <b>Criminal and Civil Penalties for False Claims and Statements</b><br><br><i>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</i><br><a href="https://www.michigan.gov/mdhhs/0,5885,7-339-71547_2943-220188--,00.html">https://www.michigan.gov/mdhhs/0,5885,7-339-71547_2943-220188--,00.html</a><br><br><i>State Bulletin/Notice - Section 6032 of the Deficit Reduction Act of 2005 – Education About False Claims Recovery</i><br><a href="http://www.michigan.gov/documents/mdch/L-13-49_443790_7.pdf">http://www.michigan.gov/documents/mdch/L-13-49_443790_7.pdf</a><br><br><b>MEDICAID FALSE CLAIM ACT</b><br>MI ST 400.601 et seq.<br><a href="http://www.legislature.mi.gov/(S(0kdzka55xnasvemjfv3wpq3u))/mileg.aspx?page=getObject&amp;objectName=mcl-Act-72-of-1977">http://www.legislature.mi.gov/(S(0kdzka55xnasvemjfv3wpq3u))/mileg.aspx?page=getObject&amp;objectName=mcl-Act-72-of-1977</a><br><br><b>MI ST 400.606 –</b><br>Agreement, combination or conspiracy to defraud state; false claim; violation; felony, penalty.<br><a href="http://www.legislature.mi.gov/(S(zzpg3j55kwnptxawil1a1n45))/mileg.aspx?page=GetObject&amp;objectname=mcl-400-606">http://www.legislature.mi.gov/(S(zzpg3j55kwnptxawil1a1n45))/mileg.aspx?page=GetObject&amp;objectname=mcl-400-606</a><br><br><b>MI ST 400.607 –</b><br><b>Making, presenting, or causing to be made or presented false claim; making, using, or causing to made or used false record or statement to conceal, avoid, or decrease obligation to transmit money or property to state pertaining to claim; penalties</b><br><a href="http://www.legislature.mi.gov/(S(jmf5nm45pdo4ea45eaobhvip))/mileg.aspx?page=GetObject&amp;objectname=mcl-400-607">http://www.legislature.mi.gov/(S(jmf5nm45pdo4ea45eaobhvip))/mileg.aspx?page=GetObject&amp;objectname=mcl-400-607</a><br><br><b>The Health Care False Claims Act</b><br>MI ST 752.1001 <i>et seq</i><br><a href="http://www.legislature.mi.gov/(S(vm1m5x45s4znylahrbvtg1ni))/mileg.aspx?page=getObject&amp;objectName=mcl-Act-323-of-1984">http://www.legislature.mi.gov/(S(vm1m5x45s4znylahrbvtg1ni))/mileg.aspx?page=getObject&amp;objectName=mcl-Act-323-of-1984</a><br><br><b>MI ST 752.1003 –</b><br>False claims, statements, or representations; violation as separate offense; liability of health facility or agency; concealing or failing to disclose certain events; violation of section as felony; penalty; section inapplicable to application for coverage.<br><a href="http://www.legislature.mi.gov/(S(edson555fxyru45ettuhzji))/mileg.aspx?page=GetObject&amp;objectname=mcl-752-1003">http://www.legislature.mi.gov/(S(edson555fxyru45ettuhzji))/mileg.aspx?page=GetObject&amp;objectname=mcl-752-1003</a><br><br><b>INSURANCE FRAUD</b><br><b>MI ST 500.4503 et seq.</b> |

| State /Citation                                                      | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                                                                      | <p><a href="http://www.legislature.mi.gov/(S(zivb0e55puf4ud45uno2iw55))/mileg.aspx?page=getObject&amp;objectName=mcl-218-1956-45">http://www.legislature.mi.gov/(S(zivb0e55puf4ud45uno2iw55))/mileg.aspx?page=getObject&amp;objectName=mcl-218-1956-45</a></p> <p><b>MI ST 500.4503</b> – Fraudulent Insurance Acts.<br/><a href="http://www.legislature.mi.gov/(S(mthyjw55lkvrw555cqr2z55))/mileg.aspx?page=GetObject&amp;objectname=mcl-500-4503">http://www.legislature.mi.gov/(S(mthyjw55lkvrw555cqr2z55))/mileg.aspx?page=GetObject&amp;objectname=mcl-500-4503</a></p> <p><b>MI ST 500.4511 -</b><br/>Violation as felony; penalty; notice to licensing authority.<br/><a href="http://www.legislature.mi.gov/(S(hyrr343qghydbz400k3zp55))/mileg.aspx?page=GetObject&amp;objectname=mcl-500-4511">http://www.legislature.mi.gov/(S(hyrr343qghydbz400k3zp55))/mileg.aspx?page=GetObject&amp;objectname=mcl-500-4511</a></p> <p>MI ST 333.16221 –<br/>Investigation of licensee, registrant, or applicant for licensure or registration; hearings, oaths, and testimony; report; grounds for proceeding under MCL 333.16226.<br/><a href="http://www.legislature.mi.gov/(S(l4dcs1ztlhs3yo551s4n4e55))/mileg.aspx?page=GetObject&amp;objectname=mcl-333-16221">http://www.legislature.mi.gov/(S(l4dcs1ztlhs3yo551s4n4e55))/mileg.aspx?page=GetObject&amp;objectname=mcl-333-16221</a></p> <p>MI ST 400.111b – Section 16 &amp; 17<br/>Requirements as condition of participation by provider<br/><a href="http://www.legislature.mi.gov/(S(gkccpyqxihddmr55yq5pnia))/mileg.aspx?page=GetObject&amp;objectname=mcl-400-111b">http://www.legislature.mi.gov/(S(gkccpyqxihddmr55yq5pnia))/mileg.aspx?page=GetObject&amp;objectname=mcl-400-111b</a></p> <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>MI ST 400.610a -</b> Civil action to recover losses sustained by state from violation of act; initiation; dismissal; intervention by attorney general; powers of attorney general; maintenance of action by private party; discovery; pursuit of alternative remedy by attorney general; award of expenses, costs, attorney fees, and percentage of monetary recovery; multiple actions based upon same allegations or transactions; actions based upon public disclosures; frivolous actions<br/><a href="http://www.legislature.mi.gov/(S(yctqvx55nyrrhofq1asostzt))/mileg.aspx?page=GetObject&amp;objectname=mcl-400-610a">http://www.legislature.mi.gov/(S(yctqvx55nyrrhofq1asostzt))/mileg.aspx?page=GetObject&amp;objectname=mcl-400-610a</a></p> <p><b>Whistle-blower Protections</b></p> <p><b>MI ST 400.610c</b><br/><b>Discrimination by employer against employee engaged in lawful acts; remedies available to employee</b><br/><a href="http://www.legislature.mi.gov/(S(yctqvx55nyrrhofq1asostzt))/mileg.aspx?page=GetObject&amp;objectname=mcl-400-610c">http://www.legislature.mi.gov/(S(yctqvx55nyrrhofq1asostzt))/mileg.aspx?page=GetObject&amp;objectname=mcl-400-610c</a></p> <p><b>MI ST 500.4509</b><br/><b>Report of information concerning insurance fraud, lack of liability; exceptions; civil liability; publication of reports relating to entity's official activities; common law or statutory privileges or immunities</b><br/><a href="http://www.legislature.mi.gov/(S(2kz5sy45mwbjst4543gnl3d))/mileg.aspx?page=GetObject&amp;objectname=mcl-500-4509">http://www.legislature.mi.gov/(S(2kz5sy45mwbjst4543gnl3d))/mileg.aspx?page=GetObject&amp;objectname=mcl-500-4509</a></p> <p><b>Public Officers &amp; Employees</b><br/>MI ST 15.361 <i>et seq.</i> – <i>Whistleblowers’ Protection Act</i><br/><a href="http://www.legislature.mi.gov/(S(wuo23cho15nefmqnmyqm255))/mileg.aspx?page=getObject&amp;objectName=mcl-Act-469-of-1980">http://www.legislature.mi.gov/(S(wuo23cho15nefmqnmyqm255))/mileg.aspx?page=getObject&amp;objectName=mcl-Act-469-of-1980</a></p> <p><b>MI ST 15.362 –</b><br/><b>Discharge, threats, or discrimination against employee for reporting violations of law</b><br/><a href="http://www.legislature.mi.gov/(S(s0mndcrttr4cylbny3huree))/mileg.aspx?page=GetObject&amp;objectname=mcl-15-362">http://www.legislature.mi.gov/(S(s0mndcrttr4cylbny3huree))/mileg.aspx?page=GetObject&amp;objectname=mcl-15-362</a></p> |
| <i>Minnesota</i><br>Minn. Stat. § 15C.01 et seq.<br>FALSE CLAIMS ACT | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://mn.gov/dhs/general-public/program-integrity/">https://mn.gov/dhs/general-public/program-integrity/</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

| State /Citation                                                                                    | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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| Minn. Stat. § 609.466<br><br>256B.064 SANCTIONS;<br>MONETARY RECOVERY<br><br>Minn. Stat. § 181.932 | <div>Minn. Stat. § 15C.01 et seq<br/>FALSE CLAIMS AGAINST THE STATE<br/><a href="https://www.revisor.mn.gov/statutes/?id=15C">https://www.revisor.mn.gov/statutes/?id=15C</a></div> <div>Minn. Stat. § 15C.01<br/>FALSE CLAIMS ACT - DEFINITIONS<br/><a href="https://www.revisor.mn.gov/statutes/?id=15C.01">https://www.revisor.mn.gov/statutes/?id=15C.01</a></div> <div>Minn. Stat. § 15C.02<br/>LIABILITY FOR CERTAIN ACTS<br/><a href="https://www.revisor.mn.gov/statutes/?id=15C.02">https://www.revisor.mn.gov/statutes/?id=15C.02</a></div> <div>Minn. Stat. § 609.466<br/>MEDICAL ASSISTANCE FRAUD<br/><a href="https://www.revisor.mn.gov/statutes/?id=609.466">https://www.revisor.mn.gov/statutes/?id=609.466</a></div> <div>Minn. Stat. § 256B.064<br/>SANCTIONS; MONETARY RECOVERY<br/><a href="https://www.revisor.mn.gov/statutes/?id=256B.064">https://www.revisor.mn.gov/statutes/?id=256B.064</a></div> <div>Minn. Stat. § 147.091<br/>GROUNDS FOR DISCIPLINARY ACTION<br/><a href="https://www.revisor.mn.gov/statutes/?id=147.091">https://www.revisor.mn.gov/statutes/?id=147.091</a></div> <div>Minn. Stat. § 62J.71<br/>PROHIBITED PROVIDER CONTRACTS<br/><a href="https://www.revisor.mn.gov/statutes/?id=62J.71">https://www.revisor.mn.gov/statutes/?id=62J.71</a></div> |
|                                                                                                    | <div>Qui Tam Actions &amp; Remedies</div> <div>Minn. Stat. § 15C.05<br/>PRIVATE REMEDIES; COMPLAINT UNDER SEAL; COPY OF COMPLAINT AND WRITTEN DISCLOSURE OF EVIDENCE TO BE SENT TO PROSECUTING ATTORNEY<br/><a href="https://www.revisor.mn.gov/statutes/?id=15C.05">https://www.revisor.mn.gov/statutes/?id=15C.05</a></div> <div>Minn. Stat. § 15C.08<br/>PROSECUTING ATTORNEY AND PRIVATE PARTY ROLES<br/><a href="https://www.revisor.mn.gov/statutes/?id=15C.08">https://www.revisor.mn.gov/statutes/?id=15C.08</a></div> <div>Minn. Stat. § 15C.12<br/>AWARD OF EXPENSES AND ATTORNEY FEES<br/><a href="https://www.revisor.mn.gov/statutes/?id=15C.12">https://www.revisor.mn.gov/statutes/?id=15C.12</a></div> <div>Minn. Stat. § 15C.13<br/>DISTRIBUTION TO PRIVATE PLAINTIFF IN CERTAIN ACTIONS<br/><a href="https://www.revisor.mn.gov/statutes/?id=15C.13">https://www.revisor.mn.gov/statutes/?id=15C.13</a></div>                                                                                                                                                                                                                                                                                                                                                                       |

| State /Citation                                                                                                                                                                              | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                                                                                                                                                                                              | <div>Whistle-blower Protections</div> <div>Minn. Stat. § 15C.145<br/>RELIEF FROM RETALIATORY ACTIONS<br/><a href="https://www.revisor.mn.gov/statutes/?id=15C.145">https://www.revisor.mn.gov/statutes/?id=15C.145</a><br/><br/>Minn. Stat. § 181.932<br/>DISCLOSURE OF INFORMATION BY EMPLOYEES<br/><a href="https://www.revisor.mn.gov/statutes/?id=181.932">https://www.revisor.mn.gov/statutes/?id=181.932</a><br/><br/>Minn. Stat. § 62J.80 – RETALIATION<br/><a href="https://www.revisor.mn.gov/statutes/?id=62J.80">https://www.revisor.mn.gov/statutes/?id=62J.80</a></div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <div>Mississippi</div> <div>Miss. Code Ann. § 43-13-201 to 43-13- 233</div> <div>Miss. Code Ann. § 7-5-303</div> <div>Miss. Code Ann. § 25-9-171</div> <div>Miss. Code Ann. § 25-9-173</div> | <div>Criminal and Civil Penalties for False Claims and Statements</div> <div>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://medicaid.ms.gov/contact/report-fraud-and-abuse/">https://medicaid.ms.gov/contact/report-fraud-and-abuse/</a></div> <div>Miss. Code Ann. § 43-13-201</div> <div>This article shall be known and may be cited as the "Medicaid Fraud Control Act."<br/><b>HISTORY:</b> SOURCES: Laws, 1984, ch. 503, § 1, eff from and after passage (approved May 15, 1984).</div> <div>Miss. Code Ann. § 43-13-203 -Definitions</div> <div>As used in this article:</div> <div>(a) "Benefit" means the receipt of money, goods, services or anything of pecuniary value.</div> <div>(b) "False statement" or "false representation" means a statement or representation knowingly and wilfully made by a person knowing of the falsity of the statement or representation.</div> <div>(c) "Knowing" and "knowingly" means that a person is aware of the nature of his conduct and that such conduct is substantially certain to cause the intended result.</div> <div>(d) "Medicaid benefit" means a benefit paid or payable under the Medicaid program established under Section 43-13-101 et seq.</div> <div>(e) "Person" means an individual, corporation, unincorporated association, partnership or other form of business association.</div> <div><b>HISTORY:</b> SOURCES: Laws, 1984, ch. 503, § 2, eff from and after passage (approved May 15, 1984).</div> <div>Miss. Code Ann. § 43-13-205</div> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p>§ 43-13-205. False representations or statements in application for Medicaid benefits; concealment or nondisclosure of facts</p> <p>(1) A person shall not knowingly make or cause to be made a false representation of a material fact in an application for Medicaid benefits.</p> <p>(2) A person shall not knowingly make or cause to be made a false statement of a material fact for use in determining rights to a Medicaid benefit.</p> <p>(3) A person, who having knowledge of the occurrence of an event affecting his initial or continued right to receive a Medicaid benefit, shall not conceal or fail to disclose that event with intent to obtain a Medicaid benefit to which the person or any other person is not entitled or in an amount greater than that to which the person or any other person is entitled.<br/><b>HISTORY:</b> SOURCES: Laws, 1984, ch. 503, § 3, eff from and after passage (approved May 15, 1984).</p> <p><b>Miss. Code Ann. § 43-13-207. Kickbacks and bribes</b></p> <p>A person shall not solicit, offer or receive a kickback or bribe in the furnishing of goods or services for which payment is or may be made in whole or in part pursuant to the Medicaid program, or make or receive any such payment, or receive a rebate of a fee or charge for referring an individual to another person for the furnishing of such goods or services.<br/><b>HISTORY:</b> SOURCES: Laws, 1984, ch. 503, § 4, eff from and after passage (approved May 15, 1984).</p> <p><b>Miss. Code Ann. § 43-13-209. False statements or false representations as to conditions or operation of institution or facility</b></p> <p>A person shall not knowingly and willfully make, induce or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operation of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, to receive Medicaid benefits as a hospital, skilled nursing facility, intermediate care facility or home health agency.<br/><b>HISTORY:</b> SOURCES: Laws, 1984, ch. 503, § 5, eff from and after passage (approved May 15, 1984).</p> <p><b>Miss. Code Ann. § 43-13-211. Conspiracy</b></p> <p>A person shall not enter into an agreement, combination or conspiracy to defraud the state by obtaining or aiding another to obtain the payment or allowance of a false, fictitious or fraudulent claim for Medicaid benefits.<br/><b>HISTORY:</b> SOURCES: Laws, 1984, ch. 503, § 6, eff from and after passage (approved May 15, 1984).</p> <p><b>Miss. Code Ann. § 43-13-213. False or fraudulent claim</b></p> <p>A person shall not make, present or cause to be made or presented a claim for Medicaid benefits, knowing the claim to be false, fictitious or fraudulent.<br/><b>HISTORY:</b> SOURCES: Laws, 1984, ch. 503, § 7, eff from and after passage (approved May 15, 1984).</p> <p><b>Miss. Code Ann. § 43-13-215. Penalties</b></p> <p>A person who violates any provision of Sections 43-13-205 through 43-13-213 shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment for not more than five (5) years, or by a fine of not more than Fifty Thousand Dollars (\$ 50,000.00), or both. Sentences imposed for convictions of separate offenses under this act may run consecutively.<br/><b>HISTORY:</b> SOURCES: Laws, 1984, ch. 503, § 8 eff from and after passage (approved May 15, 1984).</p> <p><b>Miss. Code Ann. § 43-13-225 - Civil liability and penalty of health care provider</b></p> <p>(1) A health care provider or vendor committing any act or omission in violation of this article shall be directly liable to the state and shall forfeit and pay to the state a civil penalty equal to the full amount received, plus an additional civil penalty equal to triple the full amount received.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>(2) A criminal action need not be brought against a person for that person to be civilly liable under this article.</p> <p><b>HISTORY:</b> SOURCES: Laws, 1984, ch. 503, § 13 eff from and after passage (approved May 15, 1984).</p> <p><b>Miss. Code Ann. § 7-5-303</b></p> <p>§ 7-5-303. Definitions; prohibited activities</p> <p>(1) As used in this section:</p> <p>(a) "An insurance plan" means a plan or program that provides health benefits whether directly through insurance or otherwise and includes a policy of life or property and casualty insurance, a contract of a service benefit organization, workers' compensation insurance or any program or plan implemented in accordance with state law or a membership agreement with a health maintenance organization or other prepaid programs.</p> <p>(b) "Insurance official" means:</p> <p>(i) An administrator, officer, trustee, fiduciary, custodian, counsel, agent or employee of any insurance plan;</p> <p>(ii) An officer, counsel, agency or employee of an organization, corporation, partnership, limited partnership or other entity that provides, proposes to, or contracts to provide services through any insurance plan; or</p> <p>(iii) An official, employee or agent of a state or federal agency having regulatory or administrative authority over any insurance plan.</p> <p>(2) A person or entity shall not, with the intent to appropriate to himself or to another any benefit, knowingly execute, collude or conspire to execute or attempt to execute a scheme or artifice:</p> <p>(a) To defraud any insurance plan in connection with the delivery of, or payment for, insurance benefits, items, services or claims; or</p> <p>(b) To obtain by means of false or fraudulent pretense, representation, statement or promise money, or anything of value, in connection with the delivery of or payment for insurance claims under any plan or program or state law, items or services which are in whole or in part paid for, reimbursed, subsidized by, or are a required benefit of, an insurance plan or an insurance company or any other provider.</p> <p>(3) A person or entity shall not directly or indirectly give, offer or promise anything of value to an insurance official, or offer or promise an insurance official to give anything of value to another person, with intent to influence such official's decision in carrying out any of his duties or laws or regulations.</p> <p>(4) Except as otherwise allowed by law, a person or entity shall not knowingly pay, offer, deliver, receive, solicit or accept any remuneration, as an inducement for referring or for refraining from referring a patient, client, customer or service in connection with an insurance plan.</p> <p>(5) A person or entity shall not, in any matter related to any insurance plan, knowingly and willfully falsify, conceal or omit by any trick, scheme, artifice or device a material fact, make any false, fictitious or fraudulent statement or representation or make or use any false writing or document, knowing or having reason to know that the writing or document contains any false or fraudulent statement or entry in connection with the provision of insurance programs.</p> <p>(6) A person or entity shall not fraudulently deny the payment of an insurance claim.</p> <p><b>HISTORY:</b> SOURCES: <a href="#">Laws, 1998, ch. 561, § 2</a>; reenacted without change, <a href="#">Laws, 2000, ch. 424, § 2</a>; reenacted without change, <a href="#">Laws, 2003, ch. 439, § 2</a>, eff from and after July 1, 2003.</p> <p><b>§ 7-5-309. Violations; offenses; penalties; assessment of costs</b></p> <p>(1) A person who violates any provision of Section 7-5-303 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than three (3) years, or by a fine of not more than Five Thousand Dollars (\$ 5,000.00) or double the value of the fraud, whichever is greater, or both. Sentences imposed for convictions of separate offenses under this act may run consecutively.</p> |

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|                 | <p>(2) If the defendant found to have violated any provisions of Section 7-5-303 is an organization, then it shall be subject to a fine of not more than One Hundred Fifty Thousand Dollars (\$ 150,000.00) for each violation. "Organization" for purposes of this subsection means a person other than an individual. The term includes corporations, partnerships, associations, joint-stock companies, unions, trusts, pension funds, unincorporated organizations, governments and political subdivisions thereof and nonprofit organizations.</p> <p>(3) In a proceeding for violations under Section 7-5-303, the court, in addition to the criminal penalties imposed under this section, shall assess against the defendant convicted of such violation double those reasonable costs that are expended by the Insurance Integrity Enforcement Bureau of the Office of Attorney General or the district attorney's office in the investigation of such case, including, but not limited to, the cost of investigators, process service, court reporters, expert witnesses and attorney's fees. A monetary penalty assessed and levied under this section shall be deposited to the credit of the State General Fund, and the Attorney General may institute and maintain proceedings in his name for enforcement of payment in the circuit court of the county of residence of the defendant and, if the defendant is a nonresident, such proceedings shall be in the Circuit Court of the First Judicial District of Hinds County, Mississippi.</p> <p><b>HISTORY:</b> SOURCES: <a href="#">Laws, 1998, ch. 561, § 5</a>; reenacted without change, <a href="#">Laws, 2000, ch. 424, § 5</a>; reenacted without change, <a href="#">Laws, 2003, ch. 439, § 5</a>, eff from and after July 1, 2003.</p> <p>Miss. Code Ann. § 43-13-129<br/><b>§ 43-13-129. Fraud</b></p> <p>Any person making application for benefits under this article for himself or for another person, and any provider of services, who knowingly makes a false statement or false representation or fails to disclose a material fact to obtain or increase any benefit or payment under this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisoned not to exceed one (1) year, or by both such fine and imprisonment. Each false statement or false representation or failure to disclose a material fact shall constitute a separate offense. This section shall not prohibit prosecution under any other criminal statutes of this state or the United States.</p> <p><b>Credits</b><br/>Laws 1969, 1st Ex. Sess., Ch. 37, § 15, eff. from and after passage (approved October 10, 1969).</p> |
|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                 | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                 | <p>TITLE 7. EXECUTIVE DEPARTMENT<br/>CHAPTER 5. ATTORNEY GENERAL<br/>INSURANCE INTEGRITY ENFORCEMENT BUREAU<br/>Miss. Code Ann. § 7-5-307</p> <p>§ 7-5-307. Whistleblowers; information to be provided; investigations; prosecution of violations; notice of disposition of files; report</p> <p>(1) If any workers' compensation provider, health insurance provider, employee of the Workers' Compensation Commission or other person or entity has a belief or has any information that a false or misleading statement or representation or fraud or fraudulent denial has been made in connection with or relating to a workers' compensation claim or in connection with or relating to any insurance claim in relation to an insurance plan as defined in Section 7-5-303, such person or entity may report such belief to the Insurance Integrity Enforcement Bureau, furnish any information which may be pertinent and cooperate in an investigation conducted by the bureau. Investigators for the Insurance Integrity Enforcement Bureau are authorized law enforcement officers and they are authorized to investigate and exercise such powers as are granted to other authorized law enforcement officers; however, the Insurance Integrity Enforcement Bureau and its investigators and personnel shall not have any authority to impede, interfere with or control the operations and functions of the Mississippi Workers' Compensation Commission.</p> <p>(2) Prosecutions for violations under Sections 7-5-301 through 7-5-311 or for violations of any other criminal law arising from cases of insurance fraud, may be instituted by the Attorney General, his designee or the district attorney of the district in which the violation occurred, and shall be conducted in the name of the State of Mississippi. In the prosecution of any criminal proceeding in accordance with this subsection by the Attorney General, or his designee, and in any proceeding before a grand jury in connection therewith, the Attorney General, or his designee, shall exercise all the powers and perform all the duties which the district attorney would otherwise be authorized or required to exercise or perform. The Attorney General, or his designee, shall have the authority to issue and serve subpoenas in the investigation of any matter which may violate Sections 7-5-301 through 7-5-311 or any matter relating to insurance fraud which may violate any criminal law.</p>                                                                                                                                                                                                                                                                                  |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>(3) The Attorney General, or his designee, shall notify the Workers' Compensation Commission when the Insurance Integrity Enforcement Bureau opens or closes or otherwise disposes of an investigative file relating to workers' compensation fraud. Such notification shall be confidential and shall not be subject to release to any third party except as otherwise provided by law. After such notification, it is solely within the discretion of the Mississippi Workers' Compensation Commission whether to modify or alter the proceedings in any such workers' compensation claims from the normal course of proceedings.</p> <p>(4) On or before January 1 of each year, the Insurance Integrity Enforcement Bureau shall file a report with the Senate and House of Representatives Insurance Committees detailing its work during the preceding calendar year and shall include the following:</p> <p>(a) The number and types of cases or complaints reported to the bureau;</p> <p>(b) The number and types of cases assigned for investigation;</p> <p>(c) The number of criminal warrants issued and the types of cases;</p> <p>(d) The number and types of cases referred to a district attorney for prosecution;</p> <p>(e) The number and types of cases retained by the Attorney General for prosecution;</p> <p>(f) The number and types of cases closed without prosecution;</p> <p>(g) The number and types of cases closed by the district attorney without prosecution;</p> <p>(h) The number and types of cases pending; and</p> <p>(i) The amount of actual expenses of the bureau during the preceding year classified by the types of cases.</p> <p>(5) The jurisdiction of the Insurance Integrity Enforcement Bureau shall not infringe upon any matters under the jurisdiction of the Medicaid Fraud Control Unit created in Section 43-13-201 et seq.</p> <p><b>HISTORY:</b> SOURCES: <a href="#">Laws, 1998, ch. 561, § 4</a>; reenacted without change, <a href="#">Laws, 2000, ch. 424, § 4</a>; reenacted without change, <a href="#">Laws, 2003, ch. 439, § 4</a>, eff from and after July 1, 2003.</p> <p><b>PROTECTION OF PUBLIC EMPLOYEE FROM REPRISAL FOR GIVING INFORMATION TO INVESTIGATIVE BODY OR AGENCY</b></p> <p>Miss. Code Ann. § 25-9-171 - Definitions</p> <p>(c) "Employee" means any individual employed or holding office in any department or agency of state or local government.</p> <p><b>Miss. Code Ann. § 25-9-173</b></p> <p>§ 25-9-173. Prohibition against dismissing or adversely affecting compensation or employment status of public employee for providing information to investigative body; reprisals and retaliatory actions; conditions for recovery of damages and other remedies</p> <p>(1) No agency shall dismiss or otherwise adversely affect the compensation or employment status of any public employee because the public employee testified or provided information to a state investigative body whether or not the testimony or information is provided under oath.</p> <p>(2) Any person who is a whistleblower, as defined in Section 25-9-171, and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action, is entitled to the remedies provided under Section 25-9-175. For the purpose of this section, "reprisal or retaliatory action" means, but is not limited to:</p> <p>(a) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;</p> |

| State /Citation                                                                                                                                                          | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                                          | <p>(b) Demotion;</p> <p>(c) Reduction in pay;</p> <p>(d) Denial of promotion;</p> <p>(e) Suspension;</p> <p>(f) Dismissal; and</p> <p>(g) Denial of employment.</p> <p>(3) An employee who has filed a valid whistleblower complaint may not recover the damages and other remedies provided under Section 25-9-175 unless the dismissal or adverse action taken against him was the direct result of providing information to a state investigative body.</p> <p>(4) Nothing in this section prohibits a governmental entity from making any decision exercising its authority to terminate, suspend or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower.</p> <p>(5) A governmental entity is not precluded from taking any action in accordance with established personnel policies against an employee who knowingly and intentionally provides false information to a state investigative body.</p> <p><b>HISTORY:</b> SOURCES: <a href="#">Laws, 1991, ch. 454, § 2</a>; <a href="#">Laws, 1999, ch. 424, § 3</a>, eff from and after passage (approved Mar. 18, 1999.)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><u>Missouri</u></p> <p><b>MO ST 191.900 - 914</b><br/>V.A.M.S. 191.900<br/>§ 191.900 R.S.Mo.<br/>§ 191.905 R.S.Mo.</p> <p>§ 191.907 R.S.Mo.<br/>§ 191.908 R.S.Mo.</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b><br/><a href="https://mmac.mo.gov/fraud/medicaid-fraud/">https://mmac.mo.gov/fraud/medicaid-fraud/</a><br/><a href="https://ago.mo.gov/criminal-division/medicaid-fraud">https://ago.mo.gov/criminal-division/medicaid-fraud</a><br/><a href="https://dmh.mo.gov/media/pdf/deficit-reduction-act-false-claims-act-policy">https://dmh.mo.gov/media/pdf/deficit-reduction-act-false-claims-act-policy</a></p> <p><b>MO ST 208.164</b><br/>Medical assistance abuse or fraud, definitions -- department's or division's powers -- reports, confidential -- restriction or termination of benefits, when -- rules<br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=208.164&amp;bid=11007&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=208.164&amp;bid=11007&amp;hl=</a></p> <p><b>MO ST 208.165</b><br/>Medical assistance, payments withheld for services, when--payment ordered, interest allowed<br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=208.165&amp;bid=11008&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=208.165&amp;bid=11008&amp;hl=</a></p> <p><b>MO ST 191.905</b><br/>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<br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=191.905&amp;bid=9688&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=191.905&amp;bid=9688&amp;hl=</a></p> <p><b>13 CSR 70-3.030</b><br/><b>13 MO ADC 70-3.030</b><br/><b>Administrative Actions for Improperly Paid, False, or Fraudulent Claims for MO HealthNet Services</b><br/><a href="http://s1.sos.mo.gov/cmsimages/adrules/csr/current/13csr/13c70-3.pdf">http://s1.sos.mo.gov/cmsimages/adrules/csr/current/13csr/13c70-3.pdf</a></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p><b>MO 198.142</b><br/>Health care provider and vendor not to misrepresent or conceal facts or convert benefits for payments<br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=198.142&amp;bid=10491&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=198.142&amp;bid=10491&amp;hl=</a></p> <p><b>MO ST 198.158</b><br/>Penalties for violation of sections 198.139 to 198.155<br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=198.158&amp;bid=10496&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=198.158&amp;bid=10496&amp;hl=</a></p> <p><b>MO ST 375.991</b><br/>Fraudulent insurance act, committed, when -- powers and duties of department -- penalties<br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=375.991&amp;bid=20447&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=375.991&amp;bid=20447&amp;hl=</a></p> <p><b>Applicable Licensing Statutes &amp; penalties for fraud:</b></p> <p><b>Physicians &amp; Surgeons ----</b><br/>MO ST 334.100<br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=334.100&amp;bid=17759&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=334.100&amp;bid=17759&amp;hl=</a></p> <p><b>Psychologists -- MO ST 337.035</b><br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=337.035&amp;bid=17971&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=337.035&amp;bid=17971&amp;hl=</a></p> <p><b>Social Workers – MO ST 337.630</b><br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=337.630&amp;bid=18018&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=337.630&amp;bid=18018&amp;hl=</a></p> <p><b>Marital and Family Therapists -- MO ST 337.730</b><br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=337.730&amp;bid=18051&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=337.730&amp;bid=18051&amp;hl=</a></p> <p><b>Professional Counselors -- MO ST 337.525</b><br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=337.525&amp;bid=18001&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=337.525&amp;bid=18001&amp;hl=</a></p> |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>MO ST 191.907</b><br/>Original source of information to receive a portion of any recovery<br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=191.907&amp;bid=9690&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=191.907&amp;bid=9690&amp;hl=</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                 | <p><b>Whistle-blower Protections</b></p> <p><b>MO ST 191.908</b><br/>Whistleblower protections -- violations, penalty<br/><a href="http://revisor.mo.gov/main/OneSection.aspx?section=191.908&amp;bid=9691&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=191.908&amp;bid=9691&amp;hl=</a></p> <p><b>MO ST 105.055</b><br/>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</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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|                                                     | <a href="http://revisor.mo.gov/main/OneSection.aspx?section=105.055&amp;bid=5521&amp;hl=">http://revisor.mo.gov/main/OneSection.aspx?section=105.055&amp;bid=5521&amp;hl=</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <i>Montana</i> / Mont. Code Anno., § 17-8-401 – 413 | <div><b>Criminal and Civil Penalties for False Claims and Statements</b></div> <div>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://dphhs.mt.gov/montanabealthcareprograms/fraudandabuse">https://dphhs.mt.gov/montanabealthcareprograms/fraudandabuse</a></div> <div>MT ST 17-8-401 et seq.<br/>This part may be cited as the "<b>Montana False Claims Act</b>".<br/><a href="https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/sections_index.html">https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/sections_index.html</a></div> <div>MT ST 17-8-402 - <b>Definitions</b><br/><a href="https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/section_0020/0170-0080-0040-0020.html">https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/section_0020/0170-0080-0040-0020.html</a></div> <div>MT ST 17-8-403 - <b>False claims -- procedures -- penalties.</b><br/><a href="https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/section_0030/0170-0080-0040-0030.html">https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/section_0030/0170-0080-0040-0030.html</a></div> <div>(1) Except as provided in subsection (2), a person is liable to a governmental entity for a civil penalty of not less than \$ 5,500 and not more than \$ 11,000 for each act specified in this section, plus three times the amount of damages that a governmental entity sustains, along with expenses, costs, and attorney fees, if the person:<div><div>(a) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;</div><div>(b) knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;</div><div>(c) conspires to commit a violation of this subsection (1);</div><div>(d) has possession, custody, or control of public property or money used or to be used by the governmental entity and knowingly delivers or causes to be delivered less than all of the property or money;</div><div>(e) is authorized to make or deliver a document certifying receipt of property used or to be used by the governmental entity and, with the intent to defraud the governmental entity or to willfully conceal the property, makes or delivers a receipt without completely knowing that the information on the receipt is true;</div><div>(f) knowingly buys or receives as a pledge of an obligation or debt public property of the governmental entity from any person who may not lawfully sell or pledge the property;</div><div>(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 a governmental entity or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to a governmental entity; or</div><div>(h) as a beneficiary of an inadvertent submission of a false or fraudulent claim to the governmental entity, subsequently discovers the falsity of the claim or that the claim is fraudulent and fails to disclose the false or fraudulent claim to the governmental entity within a reasonable time after discovery of the false or fraudulent claim.</div></div></div> <div>(2) In a civil action brought under <a href="#">17-8-405</a> or <a href="#">17-8-406</a>, a court shall assess a civil penalty of not less than \$ 5,500 and not more than \$ 11,000 for each act specified in this section, plus not less than two times and not more than three times the amount of damages that a governmental entity sustains if the court finds all of the following:</div> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>(a) The person committing the act furnished the government attorney with all information known to that person about the act within 30 days after the date on which the person first obtained the information.</p> <p>(b) The person fully cooperated with any investigation of the act by the government attorney.</p> <p>(c) At the time that the person furnished the government attorney with information about the act, a criminal prosecution, civil action, or administrative action had not been commenced with respect to the act and the person did not have actual knowledge of the existence of an investigation into the act.</p> <p>(3) A person who violates the provisions of this section is also liable to the governmental entity for the expenses, costs, and attorney fees of the civil action brought to recover the penalty or damages.</p> <p>(4) Liability under this section is joint and several for any act committed by two or more persons.</p> <p>(5) This section does not apply to claims, records, or statements made in relation to claims filed with the state compensation insurance fund under Title 39, chapter 71, or to claims, records, payments, or statements made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and conservation under Title 77.</p> <p>(6) (a) A court shall dismiss an action or claim brought under <a href="#">17-8-406</a>, unless opposed by the governmental entity or unless the action is brought by the government attorney or the person who is the original source of the information, if substantially the same allegations or transactions alleged in the action or claim were publicly disclosed in:</p> <ul style="list-style-type: none"><li>(i) a criminal, civil, or administrative hearing in which the governmental entity or an agent of the governmental entity is a party;</li><li>(ii) a state legislative, state auditor, or other governmental entity report, hearing, audit, or investigation; or</li><li>(iii) the news media.</li></ul> <p>(b) The production of a record pursuant to <a href="#">Article II, section 9, of the Montana constitution</a> or <a href="#">2-6-1003</a> is not a public disclosure for purposes of this section.</p> <p>(c) For purposes of this subsection (6), "original source" means an individual who:</p> <ul style="list-style-type: none"><li>(i) prior to a public disclosure, voluntarily disclosed to the governmental entity the information on which the allegations or transactions in a claim are based; or</li><li>(ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations and transactions and voluntarily provided the information to the governmental entity before filing an action.</li></ul> <p>(7) A person may not file a complaint or civil action brought under <a href="#">17-8-406</a> against the state or an officer or employee of the state arising from conduct by the officer or employee within the scope of the officer's or employee's duties to the state unless the officer or employee has a financial interest in the conduct upon which the complaint or civil action arises.</p> <p>(8) The amount of the civil penalty set forth in subsections (1) and (2) must be adjusted for inflation in a manner consistent with the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(9) If a governmental entity does not intervene, the person who initiated the action has the same right to conduct the action as the government attorney would have had if the governmental entity had intervened, including the right to inspect government records and interview officers and employees of the governmental entity.</p> <p> <b>History:</b> En. Sec. 3, <a href="#">Ch. 465, L. 2005</a>; amd. Sec. 2, <a href="#">Ch. 64, L. 2009</a>; amd. Sec. 2, <a href="#">Ch. 388, L. 2013</a>; amd. Sec. 43, <a href="#">Ch. 348, L. 2015</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p>MT ST 17-8-406 - <b>Complaint by private citizen -- civil action.</b><br/><a href="https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/section_0060/0170-0080-0040-0060.html">https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/section_0060/0170-0080-0040-0060.html</a></p> <p>(1) A private citizen may file with the government attorney a notice alleging a violation of 17-8-403 against a governmental entity of which the private citizen is a resident. The private citizen shall file a complaint with the government attorney that includes a written disclosure of material evidence and information alleging violations.<br/>History: En. Sec. 6, <a href="#">Ch. 465, L. 2005</a>; amd. Sec. 5, <a href="#">Ch. 64, L. 2009</a>.</p> <p>MT ST 17-8-410 - <b>Distribution of damages and civil penalty.</b><br/><a href="https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/section_0100/0170-0080-0040-0100.html">https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/section_0100/0170-0080-0040-0100.html</a></p> <p>(1) Except as provided in subsection (2), if the government attorney proceeds with an action brought by a person pursuant to <a href="#">17-8-406</a>, the person must receive at least 15% but not more than 25% of the proceeds recovered and collected in the action or in settlement of the claim, depending on the extent to which the person substantially contributed to the prosecution of the action.</p> <p>(2)(a) The court may award an amount it considers appropriate but in no case more than 10% of the proceeds in an action 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 disclosed through:</p> <p>(i) a criminal, civil, or administrative hearing;</p> <p>(ii) a legislative, administrative, auditor, or inspector general report, hearing, audit, or investigation; or</p> <p>(iii) the news media.</p> <p>(b) In determining the award, the court shall take into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.</p> <p>(3) Any payment to a person bringing an action pursuant to this part may be made only from the proceeds recovered and collected in the action or in settlement of the claim. The person must also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. The expenses, fees, and costs must be awarded against the defendant.</p> <p>(4) If the government attorney does not proceed with an action pursuant to <a href="#">17-8-406</a>, the person bringing the action or settling the claim must receive an amount that the court decides is reasonable for collecting the civil penalty and damages on behalf of the government attorney or governmental entity. The amount may not be less than 25% or more than 30% of the proceeds recovered and collected in the action or settlement of the claim and must be paid out of the proceeds. The person must also receive an amount for reasonable expenses that the court finds were necessarily incurred, plus reasonable attorney fees and costs. All expenses, fees, and costs must be awarded against the defendant.</p> <p>(5) Whether or not the government attorney proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of <a href="#">17-8-403</a>, the court may, to the extent the court considers appropriate, reduce or eliminate the share of the proceeds of the action that the person would otherwise receive pursuant to subsections (1) through (4) of 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 the person's role in the violation of this part, the person must be dismissed from the civil action and may not receive any share of the proceeds of the action. The dismissal does not prejudice the right of the government attorney to continue the action.</p> <p>(6) The governmental entity is entitled to any damages and civil penalty not awarded to the person. Any damages and civil penalties that remain after calculation and distribution to the person under subsections (1) through (5) must be distributed first to fully reimburse any losses suffered by the governmental entity as a result of the defendant's actions, and the remainder of the damages and any civil penalty must be deposited in the general fund of the governmental entity. Reimbursement must be made to the trust fund or program of the governmental entity that suffered the loss. If more than one trust fund or program suffered a loss and there are not enough recovered funds to fully reimburse each, then the distribution must be proportionate.</p> <p>(7) Unless otherwise provided, the remedies or penalties provided by this part are cumulative to each other and to the remedies or penalties available under all other laws of the state.</p> <p><b>Credits</b><br/>Enacted by <a href="#">Laws 2005, ch. 465, § 10</a>. Amended by <a href="#">Laws 2009, ch. 64, § 7</a>, eff. July 1, 2009; amended by <a href="#">Laws 2013, ch. 388, § 4</a>, eff. July 1, 2013; amended by <a href="#">Laws 2021, ch. 340, § 1</a>, eff. Oct. 1, 2021.</p> |
|                 | <p><b>Whistle-blower Protections</b></p> <p>MT ST 17-8-412 - <b>Prohibitions on employers -- employee remedies.</b><br/><a href="https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/section_0120/0170-0080-0040-0120.html">https://leg.mt.gov/bills/mca/title_0170/chapter_0080/part_0040/section_0120/0170-0080-0040-0120.html</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  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| State /Citation                                            | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                                                            | <p>(1) A governmental entity, private entity, or person may not adopt or enforce a rule, regulation, or policy preventing an employee, agent, or contractor from disclosing information to a government or law enforcement agency with regard to or from acting in furtherance of an investigation of a violation of <a href="#">17-8-403</a> or an action brought pursuant to <a href="#">17-8-405</a> or <a href="#">17-8-406</a>.</p> <p>(2) A governmental entity, private entity, or person may not discharge, demote, suspend, threaten, harass, or deny promotion to or in any other manner discriminate against an employee, agent, or contractor in the terms and conditions of employment, agency, or contract because of the disclosure by the employee, agent, or contractor of information to a government or law enforcement agency pertaining to a violation of <a href="#">17-8-403</a>.</p> <p>(3) An employee, contractor, or agent is 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 because of lawful acts done by the employee, contractor, or agent or associated others in furtherance of an action under this part or other efforts to stop one or more violations of this part.</p> <p>(4) Relief under subsection (3) includes 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. A civil action may be brought in the appropriate district court of the state for the relief provided in this subsection.</p> <p>(5) A civil action under this section may not be brought more than 3 years after the date on which the retaliation occurred.</p> <p>📌<b>History:</b> En. Sec. 12, <a href="#">Ch. 465, L., 2005</a>; amd. Sec. 9, <a href="#">Ch. 64, L., 2009</a>; amd. Sec. 6, <a href="#">Ch. 388, L., 2013</a>.</p>                                                                                                                                                                                     |
| <a href="#">Nebraska/</a><br>R.R.S. Neb. § 68-934 - 68-939 | <div>Criminal and Civil Penalties for False Claims and Statements</div> <div><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b><br/><b>Section 6032 of the Deficit Reduction Act of 2005 – Education About False Claims Recovery</b><br/><a href="http://dhhs.ne.gov/Pages/Program-Integrity-Employee-Education.aspx">http://dhhs.ne.gov/Pages/Program-Integrity-Employee-Education.aspx</a><br/><a href="http://dhhs.ne.gov/Medicaid%20State%20Plan/Attachment%204.42%20-%20P.S.%20109-171,%20Section%206032%20-%20Monitoring%20Provider%20Compliance.pdf#search=deficit%20reduction%20act">http://dhhs.ne.gov/Medicaid%20State%20Plan/Attachment%204.42%20-%20P.S.%20109-171,%20Section%206032%20-%20Monitoring%20Provider%20Compliance.pdf#search=deficit%20reduction%20act</a><br/><a href="http://dhhs.ne.gov/Pages/Program-Integrity.aspx">http://dhhs.ne.gov/Pages/Program-Integrity.aspx</a><br/><a href="http://dhhs.ne.gov/Pages/Program-Integrity-Reporting-Fraud.aspx">http://dhhs.ne.gov/Pages/Program-Integrity-Reporting-Fraud.aspx</a></div> <div><b>NE T 68-934 et seq</b><br/><b>False Medicaid Claims Act</b><br/><a href="http://nebraskalegislature.gov/laws/statutes.php?statute=68-934">http:// nebraskalegislature.gov/ laws/ statutes.php?statute=68-934</a></div> <div><b>NE ST 68-935 - Terms, defined</b><br/><a href="http://nebraskalegislature.gov/laws/statutes.php?statute=68-935">http:// nebraskalegislature.gov/ laws/ statutes.php?statute=68-935</a></div> <div>For purposes of the False Medicaid Claims Act:<br/>(1) Attorney General means the Attorney General, the office of the Attorney General, or a designee of the Attorney General;<br/><br/>(2) 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:<br/><br/>(a) Is presented to an officer, employee, or agent of the state; or<br/><br/>(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:<br/><br/>(i) Provides or has provided any portion of the money or property requested or demanded; or<br/><br/>(ii) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded;</div> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>(3) Good or service includes (a) any particular item, device, medical supply, or service claimed to have been provided to a recipient and listed in an itemized claim for payment and (b) any entry in the cost report, books of account, or other documents supporting such good or service;</p> <p>(4) (a) Knowing and knowingly means that a person, with respect to information:</p> <p>(i) Has actual knowledge of the information;</p> <p>(ii) Acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(iii) Acts in reckless disregard of the truth or falsity of the information.</p> <p>(b) Acts committed in a knowing manner or committed knowingly shall not require proof of a specific intent to defraud;</p> <p>(5) Material means having a natural tendency to influence or be capable of influencing the payment or receipt of money or property;</p> <p>(6) Obligation means an established duty, whether or not fixed, arising from (a) an express or implied contractual, grantor-grantee, or licensor-licensee relationship, (b) a fee-based or similar relationship, (c) statute or rule or regulation, or (d) the retention of any overpayment;</p> <p>(7) Person means any body politic or corporate, society, community, the public generally, individual, partnership, limited liability company, joint-stock company, or association; and</p> <p>(8) Recipient means an individual who is eligible to receive goods or services for which payment may be made under the medical assistance program.</p> <p><b>HISTORY:</b> <a href="#">Laws 1996, LB 1155, § 68</a>; R.S.1943, (2003), § 68-1037.02; <a href="#">Laws 2004, LB 1084, § 2</a>; R.S.Supp.,2004, § 68-1074; <a href="#">Laws 2006, LB 1248, § 35</a>; <a href="#">Laws 2013, LB 277, § 1</a>.</p> <p><b>NE ST 68-936 - Presentation of false Medicaid claim; civil liability; civil penalty; costs and attorney's fees</b><br/><a href="http://nebraskalegislature.gov/laws/statutes.php?statute=68-936">http://nebraskalegislature.gov/laws/statutes.php?statute=68-936</a></p> <p>(1) A person presents a false medicaid claim and is subject to civil liability if such person:</p> <p>(a) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;</p> <p>(b) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;</p> <p>(c) Conspires to commit a violation of the False Medicaid Claims Act;</p> <p>(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 the money or property;</p> <p>(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 knowing that the information on the receipt is not true;</p> <p>(f) Knowingly buys, or receives as a pledge of an obligation or debt, public property from any officer or employee of the state who may not lawfully sell or pledge such property; or</p> <p>(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, avoids, or decreases an obligation to pay or transmit money or property to the state.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(2) A person who commits a violation of the False Medicaid Claims Act is subject to, in addition to any other remedies that may be prescribed by law, a civil penalty of not more than ten thousand dollars. In addition to any civil penalty, any such person may be subject to damages in the amount of three times the amount of the false claim because of the act of that person.</p> <p>(3) If the state is the prevailing party in an action under the False Medicaid Claims Act, the defendant, in addition to penalties and damages, shall pay the state's costs and attorney's fees for the civil action brought to recover penalties or damages under the act.</p> <p>(4) Liability under this section is joint and several for any act committed by two or more persons.</p> <p><b>HISTORY:</b> <a href="#">Laws 1996, LB 1155, § 69</a>; <a href="#">Laws 1997, LB 307, § 110</a>; R.S.1943, (2003), § 68-1037.03; <a href="#">Laws 2004, LB 1084, § 3</a>; R.S.Supp.,2004, § 68-1075; <a href="#">Laws 2006, LB 1248, § 36</a>; <a href="#">Laws 2013, LB 277, § 2</a>.</p> <p><b>NE ST 68-937 - Failure to report</b><br/><a href="http://nebraskalegislature.gov/laws/statutes.php?statute=68-937">http://nebraskalegislature.gov/laws/statutes.php?statute=68-937</a><br/>A person violates the False Medicaid Claims Act, and is subject to civil liability as provided in <i>section 68-936</i>, if such person is a beneficiary of an inadvertent submission of a false Medicaid claim to the state, and subsequently discovers and, knowing the claim is false, fails to report the claim to the department within sixty days of such discovery. The beneficiary is not obliged to make such a report to the department if more than six years have passed since submission of the claim.<br/><b>HISTORY:</b> <a href="#">Laws 2004, LB 1084, § 4</a>; R.S.Supp., 2004, § 68-1076; <a href="#">Laws 2006, LB 1248, § 37</a>.</p> <p><b>NE ST 68-938 - Charge, solicitation, acceptance, or receipt; unlawful; when</b><br/><a href="http://nebraskalegislature.gov/laws/statutes.php?statute=68-938">http://nebraskalegislature.gov/laws/statutes.php?statute=68-938</a><br/>A person violates the False Medicaid Claims Act, and a claim submitted with regard to a good or service is deemed to be false and subjects such person to civil liability as provided in <i>section 68-936</i>, if he or she, acting on behalf of a provider providing such good or service to a recipient under the medical assistance program, charges, solicits, accepts, or receives anything of value in addition to the amount legally payable under the medical assistance program in connection with a provision of such good or service knowing that such charge, solicitation, acceptance, or receipt is not legally payable.<br/><b>HISTORY:</b> <a href="#">Laws 2004, LB 1084, § 5</a>; R.S.Supp., 2004, § 68-1077; <a href="#">Laws 2006, LB 1248, § 38</a>.</p> <p><b>NE ST 68-939 - Records; duties; acts prohibited; liability; costs and attorney's fees</b><br/><a href="http://nebraskalegislature.gov/laws/statutes.php?statute=68-939">http://nebraskalegislature.gov/laws/statutes.php?statute=68-939</a></p> <p>(1) A person violates the False Medicaid Claims Act and is subject to civil liability as provided in <i>section 68-936</i> and damages as provided in subsection (2) of this section if he or she:</p> <p>(a) Having submitted a claim or received payment for a good or service under the medical assistance program, knowingly fails to maintain such records as are necessary to disclose fully the nature of all goods or services for which a claim was submitted or payment was received, or such records as are necessary to disclose fully all income and expenditures upon which rates of payment were based, for a period of at least six years after the date on which payment was received; or</p> <p>(b) Knowingly destroys such records within six years from the date payment was received.</p> <p>(2) A person who knowingly fails to maintain records or who knowingly destroys records within six years from the date payment for a claim was received shall be subject to damages in the amount of three times the amount of the claim submitted for which records were knowingly not maintained or knowingly destroyed.</p> <p>(3) If the state is the prevailing party in an action under this section, the defendant, in addition to penalties and damages, shall pay the state's costs and attorney's fees for the civil action brought to recover penalties or damages under the act.<br/><b>HISTORY:</b> <a href="#">Laws 2004, LB 1084, § 6</a>; R.S.Supp., 2004, § 68-1078; <a href="#">Laws 2006, LB 1248, § 39</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>NE ST 38-140 - Report of unauthorized practice or unauthorized operation of business; investigation; cease and desist order; violation; penalty.</b><br/><a href="http://nebraskalegislature.gov/laws/statutes.php?statute=38-140">http://nebraskalegislature.gov/laws/statutes.php?statute=38-140</a></p> <p>Every business credentialed under the Uniform Credentialing Act shall report to the department the name of every person without a credential that he or she has reason to believe is engaged in practicing any profession or operating any business for which a credential is required by the Uniform Credentialing Act. The department may, along with other law enforcement agencies, investigate such reports or other complaints of unauthorized practice or unauthorized operation of a business. The director, with the recommendation of the appropriate board, may issue an order to cease and desist the unauthorized practice of such profession or unauthorized operation of such business as a measure to obtain compliance with the applicable credentialing requirements by the person or business prior to referral of the matter to the Attorney General for action. For businesses that do not have a board, the department may issue such cease and desist orders. Practice of such profession or operation of such business without a credential after receiving a cease and desist order is a Class III felony.</p> <p><b>HISTORY:</b> <a href="#">Laws 2007, LB 463, § 40</a>; <a href="#">Laws 2016, LB 859, § 1</a>.</p> <hr/> <p><b><i>NE ST 38-1,124 - Enforcement; investigations; violations; credential holder; duty to report; cease and desist order; violation; penalty; loss or theft of controlled substance; duty to report.</i></b></p> <p>(1) The department shall enforce the Uniform Credentialing Act and for that purpose shall make necessary investigations. Every credential holder and every member of a board shall furnish the department such evidence as he or she may have relative to any alleged violation which is being investigated.</p> <p>(2) Every credential holder shall report to the department the name of every person without a credential that he or she has reason to believe is engaged in practicing any profession or operating any business for which a credential is required by the Uniform Credentialing Act. The department may, along with the Attorney General and other law enforcement agencies, investigate such reports or other complaints of unauthorized practice. The director, with the recommendation of the appropriate board, may issue an order to cease and desist the unauthorized practice of such profession or the unauthorized operation of such business as a measure to obtain compliance with the applicable credentialing requirements by the person prior to referral of the matter to the Attorney General for action. Practice of such profession or operation of such business without a credential after receiving a cease and desist order is a Class III felony.</p> <p>(3) Any credential holder who is required to file a report of loss or theft of a controlled substance to the federal Drug Enforcement Administration shall provide a copy of such report to the department. This subsection shall not apply to pharmacist interns or pharmacy technicians.<br/>History - Laws 1927, c. 167, § 67, p. 472; C.S.1929, § 71-901; R.S.1943, § 71-168; Laws 1986, LB 286, § 74; Laws 1986, LB 579, § 66; <a href="#">Laws 1991, LB 456, § 23</a>; <a href="#">Laws 1994, LB 1210, § 50</a>; <a href="#">Laws 1994, LB 1223, § 10</a>; <a href="#">Laws 1995, LB 563, § 2</a>; <a href="#">Laws 1996, LB 414, § 1</a>; <a href="#">Laws 1997, LB 138, § 42</a>; <a href="#">Laws 1997, LB 222, § 4</a>; <a href="#">Laws 1999, LB 828, § 55</a>; <a href="#">Laws 2000, LB 1115, § 12</a>; <a href="#">Laws 2005, LB 256, § 21</a>; <a href="#">Laws 2005, LB 306, § 3</a>; <a href="#">Laws 2005, LB 361, § 32</a>; <a href="#">Laws 2005, LB 382, § 5</a>; R.S.Supp.,2006, § 71-168; <a href="#">Laws 2007, LB 236, § 7</a>; <a href="#">Laws 2007, LB 463, § 124</a>; <a href="#">Laws 2016, LB 859, § 2</a>; <a href="#">Laws 2017, LB 166, § 7</a></p> <p>465 NE ADC Ch. 2, § 007<br/><b>Neb. Admin. R. &amp; Regs. Tit. 465, Ch. 2, § 007</b><br/><b>2-007 Fraud and Abuse and Intentional Program Violations:</b> This section establishes policy and procedure for reporting suspected fraud and abuse cases and intentional program violations to the Special Investigation Unit for follow-up which includes investigation and possible prosecution.<br/><a href="http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-465/Chapter-2.pdf">http://www.sos.ne.gov/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-465/Chapter-2.pdf</a></p> <p><b>NE ST 68-1017 - Assistance; violations; penalties.</b><br/>Neb.Rev.St. § 68-1017<br/><a href="http://nebraskalegislature.gov/laws/statutes.php?statute=68-1017">http://nebraskalegislature.gov/laws/statutes.php?statute=68-1017</a></p> <p>(1) Any person, including vendors and providers of medical assistance and social services, who, by means of a willfully false statement or representation, or by impersonation or other device, obtains or attempts to obtain, or aids or abets any person to obtain or to attempt to obtain (a) an assistance certificate of award to which he or she is not entitled, (b) any commodity, any foodstuff, any food instrument, any Supplemental Nutrition Assistance Program benefit or electronic benefit card, or any payment to which such individual is not entitled or a larger payment than that to which he or she is entitled, (c) any payment made on behalf of a recipient of</p> |

| State /Citation                                                                                                            | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                                                                                                                            | medical assistance or social services, or (d) any other benefit administered by the Department of Health and Human Services, or who violates any statutory provision relating to assistance to the aged, blind, or disabled, aid to dependent children, social services, or medical assistance, commits an offense.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                                                                                                                            | (2) Any person who commits an offense under subsection (1) of this section shall upon conviction be punished as follows: (a) If the aggregate value of all funds or other benefits obtained or attempted to be obtained is less than five hundred dollars, the person so convicted shall be guilty of a Class IV misdemeanor; (b) if the aggregate value of all funds or other benefits obtained or attempted to be obtained is five hundred dollars or more but less than one thousand five hundred dollars, the person so convicted shall be guilty of a Class III misdemeanor; or (c ) if the aggregate value of all funds and other benefits obtained or attempted to be obtained is one thousand five hundred dollars or more, the person so convicted shall be guilty of a Class IV felony.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                                                            | <b>HISTORY:</b> Laws 1965, c. 394, § 5, p. 1262; Laws 1969, c. 541, § 1, p. 2192; Laws 1977, LB 39, § 127; Laws 1984, LB 1127, § 2; <a href="#">Laws 1996, LB 1044, § 314</a> ; <a href="#">Laws 1998, LB 1073, § 58</a> ; <a href="#">Laws 2007, LB 296, § 271</a> ; <a href="#">Laws 2009, LB 288, § 26</a> ; <a href="#">Laws 2010, LB 849, § 14</a> ; <a href="#">Laws 2015, LB 605, § 79</a> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                                                                                                                            | Qui Tam Actions & Remedies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                                                                                                                            | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                                                                                                            | Whistle-blower Protections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                                                                                                                            | <b>NE ST 48-1114 - Opposition to unlawful practice; participation in investigation; discrimination prohibited</b><br><a href="http://nebraskalegislature.gov/laws/statutes.php?statute=48-1114">http://nebraskalegislature.gov/laws/statutes.php?statute=48-1114</a><br>It shall be an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he or she (1) has opposed any practice made an unlawful employment practice by the Nebraska Fair Employment Practice Act, (2) has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the act, or (3) has opposed any practice or refused to carry out any action unlawful under federal law or the laws of this state.<br><b>HISTORY:</b> Laws 1965, c. 276, § 14, p. 788; Laws 1985, LB 324, § 2; Laws 1986, LB 1108, § 2; <a href="#">Laws 1993, LB 360, § 14</a> .                                                                                                                                                                         |
| <a href="#">Nevada/</a><br>Nev. Rev. Stat. Ann. § 357.010-357.250<br>NRS 422.410 – 570<br>NRS 193.130<br>NRS 357.240 - 250 | <b>Criminal and Civil Penalties for False Claims and Statements</b><br><br>Other Helpful Information About Medicaid Fraud & Reporting Fraud<br><a href="http://ag.nv.gov/About/Criminal_Justice/Medicaid_Fraud/">http://ag.nv.gov/About/Criminal_Justice/Medicaid_Fraud/</a><br><a href="http://dhcfp.nv.gov/Resources/PI/SURMain/">http://dhcfp.nv.gov/Resources/PI/SURMain/</a><br><br>Nev. Rev. Stat. Ann. § 357.010<br>Definitions<br><a href="http://www.leg.state.nv.us/NRS/NRS-357.htm#NRS357Sec010">http://www.leg.state.nv.us/NRS/NRS-357.htm#NRS357Sec010</a><br><br>Nev. Rev. Stat. Ann. § 357.020<br>"Claim" defined.<br><a href="http://www.leg.state.nv.us/NRS/NRS-357.htm#NRS357Sec020">http://www.leg.state.nv.us/NRS/NRS-357.htm#NRS357Sec020</a><br><br>Nev. Rev. Stat. Ann. § 357.040<br>Liability for damages and civil penalty for certain acts.<br><a href="http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec040">http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec040</a><br><br>Nev. Rev. Stat. Ann. § 422.366<br>Unlawful acts: Obtaining or possessing card without consent of holder of card; presumption from possession of card; penalty.<br><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec366">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec366</a> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>Nev. Rev. Stat. Ann. § 422.367<br/><b>Unlawful acts: Sale or purchase of card; authorization by holder of card for use by person not entitled to use card; penalty.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec367">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec367</a></p> <p>Nev. Rev. Stat. Ann. § 422.368<br/><b>Unlawful acts: Use of forged, expired or revoked card to obtain benefits; receipt of benefits by misrepresentation; penalty.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec368">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec368</a></p> <p>Nev. Rev. Stat. Ann. § 422.369<br/><b>Unlawful acts: Fraud by person authorized to provide care to holder of card; penalty.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec369">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec369</a></p> <p>Nev. Rev. Stat. Ann. § 422.410<br/><b>Fraudulent acts; penalties.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec410">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec410</a></p> <p>Nev. Rev. Stat. Ann. § 422.520<br/><b>"Sign" defined.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec520">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec520</a></p> <p>Nev. Rev. Stat. Ann. § 422.525<br/><b>"Statement or representation" defined.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec525">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec525</a></p> <p>Nev. Rev. Stat. Ann. § 422.530<br/><b>Responsibility for false claim, statement or representation.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec530">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec530</a></p> <p>Nev. Rev. Stat. Ann. § 422.540<br/><b>Offenses regarding false claims, statements or representations; penalties.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec540">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec540</a></p> <p>Nev. Rev. Stat. Ann. § 422.550<br/><b>Statement regarding truth and accuracy of applications, reports and invoices; perjury; presumption concerning person who signs statement on behalf of provider.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec550">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec550</a></p> <p>Nev. Rev. Stat. Ann. § 422.560<br/><b>Offenses regarding sale, purchase or lease of goods, services, materials or supplies; penalty.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec560">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec560</a></p> <p>Nev. Rev. Stat. Ann. § 422.570<br/><b>Intentional failure to maintain adequate records; intentional destruction of records; penalties.</b><br/><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec570">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec570</a></p> <p>Nev. Rev. Stat. Ann. § 422.580</p> |

| State /Citation                                                                                                          | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                                                                                                                          | <b>Civil penalties for certain violations; liability of provider for excess amount unknowingly accepted; enforcement; use of money collected as penalty or repayment.</b><br><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec580">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec580</a><br><br>Nev. Rev. Stat. Ann. § 422.590<br><b>Limitation and accrual of actions.</b><br><a href="http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec590">http://www.leg.state.nv.us/NRS/NRS-422.html#NRS422Sec590</a><br><br>Nev. Rev. Stat. Ann. § 193.130<br><b>Categories and punishment of felonies.</b><br><a href="http://www.leg.state.nv.us/NRS/NRS-193.html#NRS193Sec130">http://www.leg.state.nv.us/NRS/NRS-193.html#NRS193Sec130</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                                          | <b>Qui Tam Actions &amp; Remedies</b><br><br>Nev. Rev. Stat. Ann. § 357.080<br><b>357.080. Action by private plaintiff; venue of actions.</b><br><a href="http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec080">http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec080</a><br><br>Nev. Rev. Stat. Ann. § 357.210<br><b>357.210. Distribution to private plaintiff in certain actions.</b><br><a href="http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec210">http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec210</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                                                                                                                          | <b>Whistle-blower Protections</b><br><br>Nev. Rev. Stat. Ann. § 357.250<br>Liability of employer for violations of NRS 357.240; entitlement of employee to remedies.<br><a href="http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec250">http://www.leg.state.nv.us/NRS/NRS-357.html#NRS357Sec250</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| <i>New Hampshire/</i><br><br><i>N.H. Rev. Stat. § 167:58 et seq.</i><br>RSA 167:61-a <i>et seq</i><br><br>RSA 167:61-a-c | <b>Criminal and Civil Penalties for False Claims and Statements</b><br><br><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b><br><a href="https://www.dhhs.nh.gov/report-suspected-medicaid-provider-fraud">https://www.dhhs.nh.gov/report-suspected-medicaid-provider-fraud</a><br><a href="https://www.dhhs.nh.gov/program-integrity-unit">https://www.dhhs.nh.gov/program-integrity-unit</a><br><br><b><i>NH ST 167:58</i> -Definitions.</b><br>N.H. Rev. Stat. § 167:58<br>In this subdivision:<br><br>I. "Abuse" means provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the medicaid program, or in reimbursement for services that are above those actually rendered, that are not medically necessary, or that fail to meet professionally recognized standards for health care.<br><br>I-a. "Commissioner" means the commissioner of the department of health and human services.<br><br>II. "Data" means information of any kind in any form, including computer software as defined in <i>RSA 638:16</i> , VI.<br><br>III. "Department" means the department of health and human services. |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p><b>IV.</b> "Fraud" 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. It includes any act that constitutes fraud under New Hampshire criminal code, RSA title LXII.</p> <p><b>V.</b> "Provider" means any individual, partnership, corporation or entity furnishing services under a written contract with the department.</p> <p><b>VI.</b> "Suspension" means the removal of a provider from participation in the medicaid program for not less than 60 days nor more than 6 months.</p> <p><b>VII.</b> "Termination" means the removal of a provider from participation in the medicaid program for an indefinite period of time.</p> <p><b>HISTORY:</b> 1981, 189:2. 1983, 291:1. 1990, 260:1. 1995, 310:121, 175, eff. Nov. 1, 1995.</p> <p><b><i>NH ST 167:59 - Duties of the Commissioner.</i></b></p> <p>The commissioner shall:</p> <p><b>I.</b> Provide medical assistance to all individuals who are eligible for the medicaid program, pursuant to <i>RSA 161</i> and <i>RSA 167</i>.</p> <p><b>II.</b> Cooperate with the attorney general in the investigation of all identified instances of possible fraud or abuse in the medicaid program.</p> <p><b>III.</b> Refer to the attorney general for prosecution all cases where there is substantial potential for fraud and abuse in the medicaid program.</p> <p><b>IV.</b> Suspend or terminate from participation in the medicaid program any provider who is convicted of fraud or abuse in the medicaid program or any provider who violates rules adopted by the commissioner relative to medicaid.</p> <p><b>HISTORY:</b> 1981, 189:2. 1987, 207:3. 1995, 310:183, eff. Nov. 1, 1995.</p> <p><b><i>NH ST 167:60 - Suspension or Termination of a Medicaid Provider.</i></b></p> <p>The commissioner shall suspend or terminate any provider from the medicaid program:</p> <p><b>I.</b> Who has been found guilty of violating <i>RSA 167:17-b</i> or <i>167:61-a</i>; or</p> <p><b>II.</b> Who, after notice of overpayment and identification of claims resulting in the overpayment, does not reimburse the department by the amount of overpayment.</p> <p><b>HISTORY:</b> 1981, 189:2. 1990, 260:2. 1995, 310:175, 183, eff. Nov. 1, 1995.</p> <p><b>NH ST 167:61-a - Prohibited Acts.</b></p> <p><b>I.</b> No person shall:</p> <p><b>(a)</b> Knowingly make, present or cause to be made or presented, with intent to defraud, any false or fraudulent claim for payment for any good, service, or accommodation for which payment may be made in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>;</p> <p><b>(b)</b> Knowingly make, present, or cause to be made or presented, with intent to defraud, any false or fraudulent statement or representation for use in determining rights to benefits or payments which may be made in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>;</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(c) Knowingly make, present, or cause to be made or presented, with intent to defraud, any false or fraudulent report or filing which is or may be used in computing or determining a rate of payment for goods, services, or accommodations for which payment may be made in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>; or make, present, or cause to be made or presented any false or fraudulent statement or representation in connection with any such report or filing;</p> <p>(d) Knowingly make, present, or cause to be made or presented, with intent to defraud, any claim for payment, for any good, service, or accommodation for which payment may be made in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>, which is not medically necessary in accordance with professionally recognized standards;</p> <p>(e) Knowingly make or cause to be made, with intent to defraud, any wholly or partially false or fraudulent book, record, document, data, or instrument, which is required to be kept or which is kept as documentation:</p> <p>(1) For any good, service, or accommodation for which payment is or has been sought in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>; or</p> <p>(2) Of any cost or expense claimed for reimbursement for any good, service, or accommodation for which payment is or has been sought in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>;</p> <p>(f) Knowingly:</p> <p>(1) Make or cause to be made, with intent to defraud, any false or fraudulent statement to; or</p> <p>(2) Offer or present or cause to be offered or presented, with intent to defraud, any wholly or partially false or fraudulent record, document, data, or instrument to any law enforcement officer, including any employee or agent of the attorney general, or to any employee or agent of the department of health and human services, in connection with any audit or investigation involving any claim for payment or rate of payment for any good, service, or accommodation payable in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>;</p> <p>(g) Destroy or conceal or cause to be destroyed or concealed any book, record, document, data, or instrument required to be kept or which is kept as documentation:</p> <p>(1) For any good, service, or accommodation for which payment is or has been sought in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>; or</p> <p>(2) Of any cost or expense claimed for reimbursement for any good, service, or accommodation for which payment is or has been sought in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>; with the purpose of hindering or impeding any audit or investigation conducted by any law enforcement officer, including any employee or agent of the attorney general, or to any employee or agent of the department of health and human services;</p> <p>(h) Knowingly make, present, or cause to be made or presented, with intent to defraud, any claim for payment for any good, service, or accommodation for which payment may be made in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>, which may only be furnished by a person who is licensed by an appropriate licensing authority, and the person who furnished the good, service, or accommodation:</p> <p>(1) Was not licensed by the appropriate licensing authority; or</p> <p>(2) Was licensed by the appropriate licensing authority but such license was obtained through a misrepresentation of material fact, including cheating on any examination required for licensing;</p> <p>(i) Knowingly solicit or receive any remuneration, including any bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for purchasing, leasing, ordering, or arranging for or recommending the purchase, lease, or ordering of any good, service, accommodation or facility for which payment may be made in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>, or knowingly offer or pay any remuneration, including any bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind, to induce a person to purchase, lease, order, or arrange for or recommend the purchase, lease, or ordering of any good, service, accommodation or facility for which payment may be made in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>; or</p> <p>(j) Knowingly charge, solicit, accept or receive, in addition to any amount otherwise required to be paid under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>, any gift, money, donation, or other consideration either as a precondition of admitting or expediting the admission of a patient to a hospital, skilled nursing facility, or intermediate care facility, when the cost of the services provided in such facility to the patient is paid for in whole or in part under <a href="#">RSA 161</a> or <a href="#">RSA 167</a>.</p> <p>II. (a) Any natural person who violates any provision of this section shall be guilty of a class B felony.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p><b>(b)</b> Any other person who violates any provision of this section shall be guilty of a felony.<br/><b>HISTORY:</b> 1990, 260:3, eff. June 27, 1990.</p> <p><b>NH ST 167:61-b - False Claims Against the Department; Definitions.</b></p> <p><b>I.</b> Any person shall be liable to the state for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages that the state sustains because of the act of that person, who:</p> <p><b>(a)</b> Knowingly presents, or causes to be presented, to an officer or employee of the department, a false or fraudulent claim for payment or approval.</p> <p><b>(b)</b> Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the department.</p> <p><b>(c)</b> Conspires to defraud the department by getting a false or fraudulent claim allowed or paid.</p> <p><b>(d)</b> Has possession, custody, or control of property or money used, or to be used, by the department and, intending to defraud the department or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt.</p> <p><b>(e)</b> Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the department.</p> <p><b>(f)</b> Is a beneficiary of an inadvertent submission of a false claim to the department, who subsequently discovers the falsity of the claim, and fails to disclose the false claim to the department within a reasonable time after discovery of the false claim.</p> <p><b>II. (a)</b> Notwithstanding the damages provisions of paragraph I, the court may assess not less than 2 or more than 3 times the amount of damages that the state sustains because of the act of the person and no civil penalty, if the court finds that a person who has violated paragraph I:</p> <p><b>(1)</b> Furnished officials of the state responsible for investigating false claims violations with all information known to the person about the violation within 30 days after the date on which the defendant first obtained the information;</p> <p><b>(2)</b> Fully cooperated with any state investigation of such violation; and</p> <p><b>(3)</b> 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 chapter with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.</p> <p><b>(b)</b> A person violating paragraph I shall also be liable to the state for the costs and attorneys' fees arising from any civil action brought to recover the penalty or damages.</p> <p><b>III.</b> Liability under this section shall be joint and several for any act committed by 2 or more persons.</p> <p><b>IV.</b> This section shall not apply to any controversy involving damages to the department of less than \$5,000 in value. For purposes of this paragraph, "controversy" means the aggregate of any one or more false claims submitted by the same person.</p> <p><b>V.</b> In <a href="#">RSA 167:61-b</a> through <a href="#">RSA 167:61-e</a>:</p> <p><b>(a)</b> "Claim" means any request or demand, whether under a contract or otherwise, for money or property that is made to an officer, employee, agent, or other representative of the department or to a contractor, grantee, or other person, if the department provides any portion of the money or property that is requested or demanded, or if the department will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>(b) (1) "Knowing" and "knowingly" means that a person, with respect to information:</p> <p>(A) Has actual knowledge of the information;</p> <p>(B) Acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(C) Acts in reckless disregard of the truth or falsity of the information.</p> <p>(2) No proof of specific intent to defraud is required for an act to be knowing.</p> <p>(c) "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 state before filing an action under <a href="#">RSA 167:61-c</a> that is based on the information, and whose information provided the basis or catalyst for the investigation, hearing, audit, or report that led to the public disclosure.</p> <p>(d) "Person" means any natural person, corporation, firm, association, organization, partnership, business, or trust.</p> <p>(e) "Relator" means an individual who brings an action under <a href="#">RSA 167:61-c</a>.</p> <p>VI. In any action brought under <a href="#">RSA 167:61-c</a>, the state shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.</p> <p>VII. An action for false claims under <a href="#">RSA 167:61-c</a> shall not be brought:</p> <p>(a) More than 6 years after the date on which the violation of <a href="#">RSA 167:61-b</a> is committed; or</p> <p>(b) 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 within the office of the attorney general 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.</p> <p>. <b>HISTORY:</b> 2004, 167:2, eff. Jan. 1, 2005.</p> <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>NH ST 167:61-c –Actions by Attorney General and Private Persons.</b></p> <p>I. The attorney general shall investigate violations under <a href="#">RSA 167:61-b</a>. If the attorney general finds that a person has violated or is violating <a href="#">RSA 167:61-b</a>, the attorney general may bring a civil action in superior court against the person.</p> <p>II. (a) An individual, hereafter referred to as "relator," may bring a civil action for a violation of <a href="#">RSA 167:61-b</a>, I on behalf of the relator and for the state. The action shall be brought in the name of the state against a defendant that (1) has its principal place of business within the state or (2) during the 12-month period immediately preceding the date the action is filed, received reimbursement from the Medicaid program of this state, as defined under <a href="#">RSA 167:63</a>, V, equal to 10 percent or more of the defendant's aggregate reimbursement from all state medical assistance programs governed by Title XIX of the Social Security Act. No court shall have jurisdiction over an action brought by a relator under this paragraph, and no award shall be paid under <a href="#">RSA 167:61-c</a>, I or V, unless the action satisfies the requirements of this paragraph.</p> <p>(b) When a relator 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.</p> <p>(c) A copy of the complaint and written disclosure of substantially all material evidence and information the relator possesses shall be served on the state in accordance with the New Hampshire 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 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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>(d) The state may, for good cause shown, move the court for one or more extensions of the 60-day time period during which the complaint shall remain under seal. Any such motion may be supported by affidavits or other submissions filed under seal.</p> <p>(e) Before the expiration of the 60-day period or any extension obtained, the state shall:</p> <p>(1) Proceed with the action, in which case the action shall be conducted by the state; or</p> <p>(2) Notify the court that it declines to take over the action, in which case the relator who initiated the proceeding may conduct the action. If the state, having elected not to proceed with the action, so requests, it shall be served with copies of all pleadings filed in the action and shall receive copies of all deposition transcripts. The court, without limiting the status and rights of the relator, may subsequently permit the state to intervene upon a showing of good cause.</p> <p>III. The defendant shall not be required to respond to any complaint filed under this section until after the complaint is unsealed and served upon the defendant in accordance with the New Hampshire rules of civil procedure.</p> <p><b>HISTORY:</b> 2004, 167:2, eff. Jan. 1, 2005. <a href="#">2009, 141:1</a>, eff. June 29, 2009. <a href="#">2011, 186:1</a>, eff. June 14, 2011.</p> <p><b>NH ST 167:61-d - Rights of Parties to Actions.</b></p> <p>I. If the state proceeds with an action under <a href="#">RSA 167:61-c</a>, the state shall have the primary responsibility for prosecuting the action and shall not be bound by an act of the relator bringing the action. The relator shall have the right to continue as a party to the action, subject to the following limitations:</p> <p>(a) The state may dismiss the action notwithstanding the objections of the relator initiating the action if the court determines, after a hearing on the motion, that dismissal should be allowed.</p> <p>(b) The state may settle the action with the defendant notwithstanding the objections of the relator 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, the hearing may be held in camera.</p> <p>II. Notwithstanding <a href="#">RSA 167:61-c</a>, the state may elect to pursue its claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil monetary penalty. If any such alternate remedy is pursued in another proceeding, the relator initiating the action 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 such other proceeding that has become final shall be conclusive on all parties to an action under this section.</p> <p>III. The parties to the action shall receive court approval of any settlements reached.</p> <p><b>HISTORY:</b> 2004, 167:2, eff. Jan. 1, 2005.</p> <p><b>NH ST 167:61-e - Award to Relator.</b></p> <p>I. If the state proceeds with an action brought by a relator under <a href="#">RSA 167:61-c</a>, the relator shall, except as otherwise provided in 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 relator 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 relator 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 10 percent of the proceeds, taking into account the significance of the information furnished by the relator and the role of the relator bringing the action in advancing the case to litigation. Any payment to a relator under this paragraph 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 attorneys' fees and costs. All expenses, fees, and costs shall be awarded against the defendant.</p> <p>II. Whether or not the state proceeds with the action, if the court finds that the action was brought by a relator who planned and initiated the violation of <a href="#">RSA 167:61-b</a> 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 I, taking into account the role of the relator in advancing the case</p> |

| State /Citation                                                                    | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                                                                                    | <p>to litigation and any relevant circumstances pertaining to the violation. If the relator bringing the action is convicted of criminal conduct arising from the relator's role in the violation of <a href="#">RSA 167:61-b</a>, the relator 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 represented by the attorney general.</p> <p><b>III.</b> No court shall have jurisdiction over an action brought under <a href="#">RSA 167:61-c</a>:</p> <p class="list-item">(a) Against any department official or any division, board, bureau, commission or agency within the department;</p> <p class="list-item">(b) When the relator is a present or former employee of the state and the action is based upon information discovered by the employee during the course of the employee's employment, unless the employee first, in good faith, exhausted any existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels and the state failed to act on the information provided within a reasonable period of time;</p> <p class="list-item">(c) 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; or</p> <p class="list-item">(d) That is based upon the public disclosure of 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, unless the action is brought by the attorney general or the relator bringing the action is an original source of the information.</p> <p><b>IV.</b> The state shall not be liable for expenses or fees, including attorneys' fees, that a relator incurs in bringing an action under <a href="#">RSA 167:61-c</a> and shall not elect to pay those expenses or fees.</p> <p><b>V.</b> If the state does not proceed with an action brought by a relator under <a href="#">RSA 167:61-c</a>, 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 not be less than 25 percent and not more than 30 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 attorneys fees and costs. All expenses, fees, and costs shall be awarded against the defendant.</p> <p><b>VI.</b> If the state does not proceed with an action brought by a relator under <a href="#">RSA 167:61-c</a> and the relator conducts the action, the court may award to the defendant reasonable attorneys fees and expenses if the defendant prevails in the action and the court finds that the claim was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.</p> <p><b>HISTORY:</b> 2004, 167:2, eff. Jan. 1, 2005. <a href="#">2009, 141:2</a>, eff. June 29, 2009.</p> |
|                                                                                    | <p><b>Whistle-blower Protections</b></p> <p><b>NH ST 167:61-c -Actions by Attorney General and Private Persons.</b></p> <p><b>IV.</b> Notwithstanding any provision of <a href="#">RSA 275-E</a> to the contrary, 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 section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee 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 employee may bring an action in the superior court for the relief provided in this paragraph. For purposes of this paragraph, "employee" has the same meaning as in <a href="#">RSA 275-E:1</a>, I.</p> <p><b>HISTORY:</b> 2004, 167:2, eff. Jan. 1, 2005. <a href="#">2009, 141:1</a>, eff. June 29, 2009. <a href="#">2011, 186:1</a>, eff. June 14, 2011</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><i>New Jersey</i></p> <p>N.J. Stat. § 2A:32C-1</p> <p>N.J. Stat. § 30:4D-17</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b></p> <p><a href="https://www.nj.gov/oag/medicaidfraud/">https://www.nj.gov/oag/medicaidfraud/</a></p> <p><a href="https://www.nj.gov/comptroller/about/work/investigations/complaint.shtml">https://www.nj.gov/comptroller/about/work/investigations/complaint.shtml</a></p> <p><a href="https://www.njoag.gov/about/divisions-and-offices/office-of-the-insurance-fraud-prosecutor-home/">https://www.njoag.gov/about/divisions-and-offices/office-of-the-insurance-fraud-prosecutor-home/</a></p> <p><a href="https://www.nj.gov/comptroller/resources/index.shtml#a3">https://www.nj.gov/comptroller/resources/index.shtml#a3</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| State /Citation               | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| N.J. Stat. § 34:19-3          | <p><b>N.J. Stat. § 2A:32C-1 - New Jersey False Claims Act.</b><br/>Sections 1 through 15 and sections 17 and 18 [<del>C.2A:32C-1</del> through <del>C.2A:32C-17</del>] of this act shall be known and may be cited as the “New Jersey False Claims Act.”<br/><i>History - L. 2007, c. 265, § 1, eff. Mar. 13, 2008.</i></p> <hr/> <p><b>N.J. Stat. § 2A:32C-2 - Definitions relative to false claims</b></p> <p>As used in this act:</p> <p>"Attorney General" means the Attorney General of the State of New Jersey, or his designee.</p> <p>"Claim" means a request or demand, under a contract or otherwise, for money, property, or services that is made to any employee, officer, or agent of the State, or to any contractor, grantee, or other recipient if the State provides any portion of the money, property, or services requested or demanded, or if the State will reimburse the contractor, grantee, or other recipient for any portion of the money, property, or services requested or demanded. The term does not include claims, records, or statements made in connection with State tax laws.</p> <p>"Knowing" or "knowingly" means, with respect to information, that a person:</p> <p>(1) has actual knowledge of the information; or</p> <p>(2) acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(3) acts in reckless disregard of the truth or falsity of the information.</p> <p>No proof of specific intent to defraud is required. Acts occurring by innocent mistake or as a result of mere negligence shall be a defense to an action under this act.</p> <p>"State" means any of the principal departments in the Executive Branch of State government, and any division, board, bureau, office, commission or other instrumentality within or created by such department; and any independent State authority, commission, instrumentality or agency.<br/>History: L. <a href="#">2007, c. 265</a>, § 2, eff. Mar. 13, 2008.</p> <p><b>N.J. Stat. § 2A:32C-3 - Civil liability for false, fraudulent claim</b><br/>A person shall be jointly and severally liable to the State for a civil penalty of not less than and not more than the civil penalty allowed under the federal False Claims Act (<i>31 U.S.C. § 3729</i> et seq.), as may be adjusted in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub.L.101-410, for each false or fraudulent claim, plus three times the amount of damages which the State sustains, if the person commits any of the following acts:</p> <p>a. Knowingly presents or causes to be presented to an employee, officer or agent of the State, or to any contractor, grantee, or other recipient of State funds, a false or fraudulent claim for payment or approval;</p> <p>b. Knowingly makes, uses, or causes to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the State;</p> <p>c. Conspires to defraud the State by getting a false or fraudulent claim allowed or paid by the State;</p> <p>d. Has possession, custody, or control of public property or money used or to be used by the State and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;</p> <p>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 entity, makes or delivers a receipt without completely knowing that the</p> |
| N.J.S.A. § 30:4D-17(a) – (d), |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| N.J.S.A. 30:4D-17(e) – (i),   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| N.J.S.A. 30:4D-17.1[a],       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| N.J. Stat. § 2C:21-4.3        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| N.J. Stat. § 17:33A-1         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| N.J. Stat. § 2C:21-4.2        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| N.J. Stat. § 2C:21-22.1       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| N.J. Stat. § 2C:51-5          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| N.J. Stat. § 17:33A-5         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>information on the receipt is true;</p> <p>f. Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property; or</p> <p>g. Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State.</p> <p>History: L. <a href="#">2007, c. 265</a>, § 3, eff. Mar. 13, 2008.</p> <p><b>N.J. Stat. § 2C:21-4.2 - Definitions relative to health care claims fraud</b></p> <p>As used in this act:</p> <p>"Health care claims fraud" means making, or causing to be made, a false, fictitious, fraudulent, or misleading statement of material fact in, or omitting a material fact from, or causing a material fact to be omitted from, any record, bill, claim or other document, in writing, electronically or in any other form, that a person attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted for payment or reimbursement for health care services.</p> <p>"Practitioner" means a person licensed in this State to practice medicine and surgery, chiropractic, podiatric medicine, dentistry, optometry, psychology, pharmacy, nursing, physical therapy, or law; any other person licensed, registered or certified by any State agency to practice a profession or occupation in the State of New Jersey or any person similarly licensed, registered, or certified in another jurisdiction.</p> <p>History: L. <a href="#">1997, c. 353</a>, § 2; amended <a href="#">2005, c. 259</a>, § 20, eff. Jan. 4, 2006.</p> <p><b>N.J. Stat. § 2C:21-4.3 - Health care claims fraud, degree of crime; prosecution guidelines</b></p> <p>a. A practitioner is guilty of a crime of the second degree if that person knowingly commits health care claims fraud in the course of providing professional services. In addition to all other criminal penalties allowed by law, a person convicted under this subsection may be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained.</p> <p>b. A practitioner is guilty of a crime of the third degree if that person recklessly commits health care claims fraud in the course of providing professional services. In addition to all other criminal penalties allowed by law, a person convicted under this subsection may be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained.</p> <p>c. A person, who is not a practitioner subject to the provisions of subsection a. or b. of this section, is guilty of a crime of the third degree if that person knowingly commits health care claims fraud. A person, who is not a practitioner subject to the provisions of subsection a. or b. of this section, is guilty of a crime of the second degree if that person knowingly commits five or more acts of health care claims fraud and the aggregate pecuniary benefit obtained or sought to be obtained is at least \$ 1,000. In addition to all other criminal penalties allowed by law, a person convicted under this subsection may be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained.</p> <p>d. A person, who is not a practitioner subject to the provisions of subsection a. or b. of this section, is guilty of a crime of the fourth degree if that person recklessly commits health care claims fraud. In addition to all other criminal penalties allowed by law, a person convicted under this subsection may be subject to a fine of up to five times the pecuniary benefit obtained or sought to be obtained.</p> <p>e. Each act of health care claims fraud shall constitute an additional, separate and distinct offense, except that five or more separate acts may be aggregated for the purpose of establishing liability pursuant to subsection c. of this section. Multiple acts of health care claims fraud which are contained in a single record, bill, claim, application, payment, affidavit, certification or other document shall each constitute an additional, separate and distinct offense for purposes of this section.</p> <p>f. (1) The falsity, fictitiousness, fraudulence or misleading nature of a statement may be inferred by the trier of fact in the case of a practitioner who attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted, any record, bill, claim or other document for treatment or procedure without the practitioner, or an associate of the practitioner, having performed an assessment of the physical or mental condition of the patient or client necessary to determine the appropriate course of treatment.</p> <p>(2) The falsity, fictitiousness, fraudulence or misleading nature of a statement may be inferred by the trier of fact in the case of a person who attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted any record, bill, claim or other document for more treatments or procedures than can be performed during the time in which the treatments or procedures were represented to have been performed.</p> |



| State /Citation        | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| N.J. Stat. § 2C:21-4.3 | <p>(3) Proof that a practitioner has signed or initialed a record, bill, claim or other document gives rise to an inference that the practitioner has read and reviewed that record, bill, claim or other document.</p> <p>g. In order to promote the uniform enforcement of this act, the Attorney General shall develop health care claims fraud prosecution guidelines and disseminate them to the county prosecutors within 120 days of the effective date of this act.</p> <p>h. For the purposes of this section, a person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.</p> <p>i. (1) Nothing in this act shall preclude an indictment and conviction for any other offense defined by the laws of this State.</p> <p>(2) Nothing in this act shall preclude an assignment judge from dismissing a prosecution of health care claims fraud if the assignment judge determines, pursuant to <i>N.J.S. 2C:2-11</i>, the conduct charged to be a de minimis infraction.</p> <p>History: L. <a href="#">1997, c. 353</a>, § 3; L. <a href="#">2003, c. 82</a>, § 75.</p> <p><b>N.J. Stat. § 2C:21-4.7</b><br/>Insurance Fraud Detection Reward Program</p> <p>a. There is established within the Office of the Insurance Fraud Prosecutor an Insurance Fraud Detection Reward Program, to be funded from surcharges imposed pursuant to section 53 of P.L. 2002, c. 34 (<i>C. 17:33A-5.1</i>) and supplemented as necessary and appropriate by amounts budgeted for the operation of the office.</p> <p>b. A member of the public who has knowledge of or who believes that an act of health care claims fraud, insurance fraud or any other criminal offense involving or related to an insurance transaction is being or has been committed may provide the Insurance Fraud Prosecutor with a report or information pertinent to that knowledge or belief and may provide additional information that the Insurance Fraud Prosecutor requests.</p> <p>c. The Insurance Fraud Prosecutor shall maintain a 24-hour toll-free insurance fraud hotline to receive information from members of the public who have knowledge of or who believe that an act of health care claims fraud, insurance fraud or any other criminal offense involving or related to an insurance transaction is being or has been committed.</p> <p>d. The Attorney General, through the Insurance Fraud Prosecutor, is authorized to pay a reward of up to \$ 25,000 to persons providing information leading to the arrest, prosecution and conviction of persons or entities who have committed health care claims fraud, insurance fraud or any other criminal offense related to an insurance transaction. Only a single reward amount may be paid by the Insurance Fraud Prosecutor for claims arising out of the same transaction or occurrence, regardless of the number of persons arrested, prosecuted and convicted and regardless of the number of persons submitting claims for the reward. The reward may be divided and disbursed among more than one person in amounts determined by the Insurance Fraud Prosecutor, in accordance with the provisions of this subsection. The decision of the Insurance Fraud Prosecutor as to the person or persons entitled to the reward shall be final unless the reward recipients shall disagree, in which event, the matter shall be referred to the Attorney General whose decision shall be final and shall not be subject to judicial review.</p> <p>e. Any person acting in good faith who provides information in accordance with subsection b. of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such act.</p> <p>f. The Attorney General shall promulgate and adopt rules and regulations which set forth the reward program application and approval process, including the criteria against which claims shall be evaluated, the basis for determining specific reward amounts, and the manner of reward disbursement. Applications for rewards authorized by this section must be submitted in accordance with rules established by the Attorney General.</p> <p>History: L. <a href="#">2003, c. 82</a>, § 74.</p> <p><b>N.J. Stat. § 2C:21-22.1 - Definitions relative to use of runners; crime; sentencing</b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>a. As used in this section:</p> <p>"Provider" means an attorney, a health care professional, an owner or operator of a health care practice or facility, any person who creates the impression that he or his practice or facility can provide legal or health care services, or any person employed or acting on behalf of any of the aforementioned persons.</p> <p>"Public media" means telephone directories, professional directories, newspapers and other periodicals, radio and television, billboards and mailed or electronically transmitted written communications that do not involve in-person contact with a specific prospective client, patient or customer.</p> <p>"Runner" means a person who, for a pecuniary benefit, procures or attempts to procure a client, patient or customer at the direction of, request of or in cooperation with a provider whose purpose is to seek to obtain benefits under a contract of insurance or assert a claim against an insured or an insurance carrier for providing services to the client, patient or customer, or to obtain benefits under or assert a claim against a State or federal health care benefits program or prescription drug assistance program. "Runner" shall not include a person who procures or attempts to procure clients, patients or customers for a provider through public media or a person who refers clients, patients or customers to a provider as otherwise authorized by law.</p> <p>b. A person is guilty of a crime of the third degree if that person knowingly acts as a runner or uses, solicits, directs, hires or employs another to act as a runner.</p> <p>c. Notwithstanding the provisions of subsection e. of <i>N.J.S.2C:44-1</i>, the court shall deal with a person who has been convicted of a violation of this section by imposing a sentence of imprisonment unless, having regard to the character and condition of the person, the court is of the opinion that imprisonment would be a serious injustice which overrides the need to deter such conduct by others. If the court imposes a noncustodial or probationary sentence, such sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution. Nothing in this section shall preclude an indictment and conviction for any other offense defined by the laws of this State.</p> <p>History: L. <a href="#">1999, c. 162</a>, § 1, eff. July 12, 1999; amended <a href="#">2007, c. 58</a>, § 12, eff. March 16, 2007.</p> <p><b>N.J. Stat. § 30:4D-1</b><br/>This act shall be known and may be cited as the "<b>New Jersey Medical Assistance and Health Services Act.</b>"<br/><b>History:</b> L. 1968, c. 413, § 1.</p> <p><b>N.J. Stat. § 30:4D-17 - Penalties for violation of act; criminal and civil; judgment</b></p> <p>(a) Any person who willfully obtains benefits under P.L.1968, c.413 (<a href="#">C.30:4D-1</a> et seq.) to which a person is not entitled or in a greater amount than that to which a person is entitled and any provider who willfully receives medical assistance payments to which a provider is not entitled or in a greater amount than that to which a provider is entitled is guilty of a crime of the third degree, provided, however, that the presumption of nonimprisonment set forth in subsection e. of <a href="#">N.J.S.2C:44-1</a> for persons who have not previously been convicted of an offense shall not apply to a person who is convicted under the provisions of this subsection.</p> <p>(b) Any provider, or any person, firm, partnership, corporation, or entity, who:</p> <p>(1) Knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any cost study, claim form, or any document necessary to apply for or receive any benefit or payment under P.L.1968, c.413; or</p> <p>(2) At any time knowingly and willfully makes or causes to be made any false statement, written or oral, of a material fact for use in determining rights to such benefit or payment under P.L.1968, c.413; or</p> <p>(3) Conceals or fails to disclose the occurrence of an event which</p> <p>(i) affects a person's initial or continued right to any such benefit or payment, or</p> <p>(ii) affects the initial or continued right to any such benefit or payment of any provider or any person, firm, partnership, corporation, or other entity in whose behalf a person has applied for or is receiving such benefit or payment with an intent to fraudulently secure benefits or payments not authorized under P.L.1968, c.413 or in a greater amount than that which is authorized under P.L.1968, c.413; or</p> <p>(4) Knowingly and willfully converts benefits or payments or any part thereof received for the use and benefit of any provider or any person, firm, partnership, corporation, or other entity to a use other than the use and</p> |

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|                 | <p>benefit of such provider or such person, firm, partnership, corporation, or entity; is guilty of a crime of the third degree, provided, however, that the presumption of nonimprisonment set forth in subsection e. of <a href="#">N.J.S.2C:44-1</a> for persons who have not previously been convicted of an offense shall not apply to a person who is convicted under the provisions of this subsection.</p> <p>(c) Any provider, or any person, firm, partnership, corporation, or entity who solicits, offers, or receives any kickback, rebate, or bribe in connection with:</p> <p>(1) The furnishing of items or services for which payment is or may be made in whole or in part under P.L.1968, c.413; or</p> <p>(2) The furnishing of items or services whose cost is or may be reported in whole or in part in order to obtain benefits or payments under P.L.1968, c.413; or</p> <p>(3) The receipt of any benefit or payment under this act, is guilty of a crime of the third degree, provided, however, that the presumption of nonimprisonment set forth in subsection e. of <a href="#">N.J.S.2C:44-1</a> for persons who have not previously been convicted of an offense shall not apply to a person who is convicted under the provisions of this subsection.</p> <p>This subsection shall not apply to (A) a discount or other reduction in price under P.L.1968, c.413 if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made under P.L.1968, c.413; and (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.</p> <p>(d) 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 operations of any institution or facility in order that such institution or facility may qualify either upon initial certification or recertification as a hospital, skilled nursing facility, intermediate care facility, or health agency, thereby entitling them to receive payments under P.L.1968, c.413, shall be guilty of a crime of the fourth degree.</p> <p>(e) Any person, firm, corporation, partnership, or other legal entity who violates the provisions of any of the foregoing subsections of this section or any provisions of section 3 of <a href="#">P.L.2007, c.265 (C.2A:32C-3)</a>, shall, in addition to any other penalties provided by law, be liable to civil penalties of: (1) payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the payment was made to said person, firm, corporation, partnership or other legal entity for 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 not to exceed three-fold the amount of such excess benefits or payments; and (3) payment in the sum of not less than and not more than the civil penalty allowed under the federal False Claims Act (31 U.S.C. s.3729 et seq.), as it may be adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub.L.101-410 for each excessive claim for assistance, benefits or payments.</p> <p>(f) Any person, firm, corporation, partnership, or other legal entity, other than an individual recipient of medical services reimbursable by the Division of Medical Assistance and Health Services, who, without intent to violate P.L.1968, c.413, obtains medical assistance or other benefits or payments under P.L.1968, c.413 in excess of the amount to which he is entitled, shall be liable to a civil penalty of payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the benefit or payment was made to said person, firm, corporation, partnership, or other legal entity for the period from September 15, 1976 or the date upon which payment was made, whichever is later, to the date upon which repayment is made to the State, provided, however, that no such person, firm, corporation, partnership, or other legal entity shall be liable to such civil penalty when excess medical assistance or other benefits or payments under this act are obtained by such person, firm, corporation, partnership, or other legal entity as a result of error made by the Division of Medical Assistance and Health Services, as determined by said division; provided, further, that if preliminary notification of an overpayment is not given to a provider by the division within 180 days after completion of the field audit as defined by regulation, no interest shall accrue during the period beginning 180 days after completion of the field audit and ending on the date preliminary notification is given to the provider.</p> <p>(g) All interest and civil penalties provided for in P.L.1968, c.413 and all medical assistance and other benefits to which a person, firm, corporation, partnership, or other legal entity was not entitled shall be recovered in an administrative proceeding held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (<a href="#">C.52:14B-1</a> et seq.), except that recovery actions against minors or incapacitated persons shall be initiated in a court of competent jurisdiction.</p> <p>(h) Upon the failure of any person, firm, corporation, partnership, or other legal entity to comply within 10 days after service of any order of the director or the director's designee directing payment of any amount found to be due pursuant to subsection (g) of this section, or at any time prior to any final agency adjudication not involving a recipient or former recipient of benefits under P.L.1968, c.413, the director may issue a certificate to the clerk of the Superior Court that such person, firm, corporation, partnership, or other legal entity is indebted to the State for the payment of the amount. A copy of such certificate shall be served upon the person, firm, corporation, partnership, or other legal entity against whom the order was entered. Thereupon the clerk shall immediately enter upon the record of docketed judgments the name of the person, firm, corporation, partnership, or other legal entity so indebted, and of 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, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the final order of the director or the director's designee.</p> |

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|                 | <p>(i) In order to satisfy any recovery claim asserted against a provider under this section, whether or not that claim has been the subject of final agency adjudication, the division or its fiscal agents is authorized to withhold funds otherwise payable under P.L.1968, c.413 to the provider.</p> <p>(j) The Attorney General may, when requested by the commissioner or the commissioner's agent, apply ex parte to the Superior Court to compel any party to comply forthwith with a subpoena issued under P.L.1968, c.413. Any party who, having been served with a subpoena issued pursuant to the provisions of P.L.1968, c.413, fails either to attend any hearing, or to appear or be examined, to answer any question or to produce any books, records, accounts, papers or documents, shall be liable to a penalty of \$ 500 for each such failure, to be recovered in the name of the State in a summary civil proceeding to be initiated in the Superior Court. The Attorney General shall prosecute the actions for the recovery of the penalty prescribed in this section when requested to do so by the commissioner or the commissioner's agent and when, in the judgment of the Attorney General, the facts and law warrant such prosecution. Such failure on the part of the party shall be punishable as contempt of court by the court in the same manner as like failure is punishable in an action pending in the court when the matter is brought before the court by motion filed by the Attorney General and supported by affidavit stating the circumstances.</p> <p>(k) Notwithstanding the provisions of <a href="#">N.J.S.2C:43-3</a> to the contrary, but in addition to any other penalty or disposition that may be imposed by law:</p> <p>(1) a person who violates the provisions of subsection (a), (b), or (c) of this section shall be liable to a penalty of not less than \$ 15,000 and not more than \$ 25,000 for each violation; and</p> <p>(2) a person who violates the provisions of subsection (d) of this section shall be liable to a penalty of not less than \$ 10,000 and not more than \$ 25,000 for each violation.</p> <p>(l) A person who violates the provisions of subsection (a), (b), or (c) of this section under circumstances in which the aggregate amount obtained or sought to be obtained is \$ 1,000 or more, who has previously been convicted of a violation of the provisions of subsection (a), (b), or (c) of this section within 10 years of the current violation, under circumstances where the aggregate amount obtained or sought to be obtained was \$ 1,000 or more, is guilty of a crime of the second degree and, in addition to any other penalty or disposition authorized by law and notwithstanding the provisions of <a href="#">N.J.S.2C:43-3</a> to the contrary, shall be liable to a penalty of not less than \$ 25,000 and not more than \$ 150,000 for each such repeat violation.</p> <p> <b>History:</b> L. 1968, c. 413, § 17. Amended by L. 1976, c. 89, § 2, eff. Sept. 15, 1976; L. 1979, c. 365, § 16, eff. Feb. 4, 1980; <a href="#">2007, c. 265</a>, § 16, eff. Mar. 13, 2008; <a href="#">2010, c. 30</a>, § 2, eff. June 29, 2010; <a href="#">2013, c. 103</a>, § 88, eff. Aug. 7, 2013.</p> <p><b>N.J. Stat. § 30:4D-17.1 - Suspension or disqualification of providers, termination of benefits to recipients; rules and regulations</b></p> <p>a. The director may suspend, debar or disqualify for good cause any provider presently participating or who has applied for participation in the program, or may suspend, debar or disqualify for good cause any person, company, firm, association, corporation or other entity who is participating directly or indirectly in the Medicaid program, or who is an agent, servant, employee or independent contractor of a provider in the Medicaid program.</p> <p>b. The director may terminate or otherwise restrict medical assistance benefits to any eligible recipient thereof for good cause.</p> <p>c. The director may promulgate such rules, regulations and administrative orders as are necessary to effectuate the provisions and purposes of this section.</p> <p><b>History:</b> L. 1979, c. 365, 17, eff. Feb. 4, 1980.</p> <p><b>N.J. Stat. § 2C:51-5 - Practitioners convicted of health care claims fraud</b></p> <p>a. (1) A practitioner convicted of health care claims fraud pursuant to subsection a. of section 3 of P.L. 1997, c. 353 (<a href="#">C. 2C:21-4.3</a>) or a substantially similar crime under the laws of another state or the United States shall forfeit his license and be forever barred from the practice of the profession unless the court finds that such license forfeiture would be a serious injustice which overrides the need to deter such conduct by others and in such case the court shall determine an appropriate period of license suspension which shall be for a period of not less than one year. If the court does not permanently forfeit such license pursuant to this paragraph, the sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution.</p> <p>(2) Upon a first conviction of health care claims fraud pursuant to subsection b. of section 3 of P.L. 1997, c. 353 (<a href="#">C. 2C:21-4.3</a>) or a substantially similar crime under the laws of another state or the United States, a practitioner shall have his license suspended and be barred from the practice of the profession for a period of at least one year.</p> <p>(3) Upon a second conviction of health care claims fraud pursuant to subsection b. of section 3 of P.L. 1997, c. 353 (<a href="#">C. 2C:21-4.3</a>) or a substantially similar crime under the laws of another state or the United States, a</p> |

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|                 | <p>practitioner shall forfeit his license and be forever barred from the practice of the profession.</p> <p>(4) A person convicted of second degree insurance fraud pursuant to section 73 of P.L. 2003, c. 89 (<a href="#">C. 2C:21-4.6</a>) or a substantially similar crime under the laws of another state or the United States who holds a license or certificate of authority or qualification to engage in the practice of a profession, occupation, trade, or vocation or business, including but not limited to a practitioner as defined in section 2 of P.L. 1997, c. 353 (<a href="#">C. 2C:21-4.2</a>), shall forfeit that license or certificate and be forever barred from the practice of that profession, occupation, trade, vocation or business if the act or acts of insurance fraud were related to or performed while engaged in the practice of that profession, occupation, trade, vocation or business, unless the court finds that such license or certificate forfeiture would be a serious injustice which overrides the need to deter such conduct by others and in that case the court shall determine an appropriate period of license or certificate suspension which shall be for a period of not less than one year. If the court does not permanently forfeit such license or certificate pursuant to this paragraph, the sentence shall not become final for 10 days in order to permit the appeal of that sentence by the prosecution.</p> <p>(5) A person convicted of third degree insurance fraud pursuant to section 73 of P.L. 2003, c. 89 (<a href="#">C. 2C:21-4.6</a>) or a substantially similar crime under the laws of another state or the United States who holds a license or certificate of authority or qualification to engage in the practice of a profession, occupation, trade, vocation or business, including but not limited to a practitioner as defined in section 2 of P.L. 1997, c. 353 (<a href="#">C. 2C:21-4.2</a>), shall have his license or certificate suspended and be barred from the practice of that profession, occupation, trade, vocation or business for a period of at least one year if the act or acts of insurance fraud were related to or performed while engaged in the practice of that profession, occupation, trade, vocation or business.</p> <p>(6) Upon a second conviction of third degree insurance fraud pursuant to section 73 of P.L. 2003, c. 89 (<a href="#">C. 2C:21-4.6</a>) or a substantially similar crime under the laws of another state or the United States which meets the criteria of paragraph (2) of this subsection, a person shall forfeit his license or certificate and be forever barred from the practice of that profession, occupation, trade, vocation or business.</p> <p>(7) Upon application of the county prosecutor or the Attorney General, a person convicted of any crime of the second degree or above enumerated in chapter 20 or 21 of Title 2C of the New Jersey Statutes or a substantially similar crime under the laws of another state or the United States who holds a license or certificate of authority or qualification to engage in the practice of a profession, occupation, trade, vocation or business, including a practitioner as defined in section 2 of P.L. 1997, c. 353 (<a href="#">C. 2C:21-4.2</a>), shall forfeit such license or certificate and be forever barred from the practice of that profession, occupation, trade, vocation or business if the act or acts underlying the conviction involved or were related to an insurance transaction as defined in section 72 of P.L. 2003, c. 89 (<a href="#">C. 2C:21-4.5</a>) and touched upon or were performed while engaged in the practice of that profession, occupation, trade, vocation or business, unless the court finds that the license or certificate forfeiture would be a serious injustice which overrides the need to deter such conduct by others and in that case the court shall determine an appropriate period of license or certificate suspension which shall be for a period of not less than one year. If the court does not permanently forfeit that license or certificate pursuant to this paragraph, the sentence shall not become final for 10 days in order to permit the appeal of that sentence by the prosecution.</p> <p>(8) Upon application of the county prosecutor or the Attorney General, a person convicted of any crime of the third degree enumerated in chapter 20 or 21 of Title 2C of the New Jersey Statutes or a substantially similar crime under the laws of another state or the United States who holds a license or certificate of authority or qualification to engage in the practice of a profession, occupation, trade, vocation or business, including but not limited to a practitioner as defined in section 2 of P.L. 1997, c. 353 (<a href="#">C. 2C:21-4.2</a>), shall have his license or certificate suspended and be barred from the practice of that profession, occupation, trade, vocation or business for a period of at least one year if the act or acts underlying the conviction involved or were related to an insurance transaction as defined in section 72 of P.L. 2003, c. 89 (<a href="#">C. 2C:21-4.5</a>) and touched upon or were performed while engaged in the practice of that profession, occupation, trade, vocation or business.</p> <p>b. A court of this State shall enter an order of license or certificate forfeiture or suspension pursuant to subsection a. of this section:</p> <p>(1) Immediately upon a finding of guilt by the trier of fact or a plea of guilty entered in any court of this State; or</p> <p>(2) Upon application of the county prosecutor or the Attorney General, when the license or certificate forfeiture or suspension is made pursuant to paragraph (4) of subsection a. of this section or is based upon a conviction of an offense under the laws of another state or of the United States. An order of license or certificate forfeiture or suspension pursuant to this paragraph shall be effective as of the date the person is found guilty by the trier of fact or pleads guilty to the offense.</p> <p>This application may also be made in the alternative by the Attorney General to the appropriate licensing agency.</p> <p>The court shall provide notice of the forfeiture or suspension to the appropriate licensing agency within 10 days of the date an order of forfeiture or suspension is entered.</p> <p>c. No court shall grant a stay of an order of license or certificate forfeiture or suspension pending appeal of a conviction or forfeiture or suspension order unless the court is clearly convinced that there is a substantial likelihood of success on the merits. If the conviction is reversed or the order of license or certificate forfeiture or suspension is overturned, the court shall provide notice of reinstatement to the appropriate licensing</p> |

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|                 | <p>agency within 10 days of the date of the order of reinstatement. The license or certificate shall be restored, in accordance with applicable procedures, unless the appropriate licensing agency determines to suspend or revoke the license or certificate.</p> <p>d. In any case in which the issue of license or certificate forfeiture or suspension is not raised in a court of this State at the time of a finding of guilt, entry of a guilty plea or sentencing, a license or certificate forfeiture or suspension required by this section may be ordered by a court or by the appropriate licensing agency of this State upon application of the county prosecutor or the Attorney General or upon application of the appropriate licensing agency having authority to revoke or suspend the professional's license or certificate. The fact that a court has declined to order license or certificate forfeiture or suspension shall not preclude the appropriate licensing agency having authority to revoke or suspend the professional's license or certificate from seeking to do so on the ground that the conduct giving rise to the conviction demonstrates that the person is unfit to hold the license or certificate or is otherwise liable for an offense as specified in section 8 of P.L. 1978, c. 73 (<a href="#">C. 45:1-21</a>).</p> <p>e. If the Supreme Court of the State of New Jersey issues Rules of Court pursuant to this act, the Supreme Court may revoke the license to practice law of any attorney who has been convicted, under the laws of this State, of health care claims fraud pursuant to section 3 of P.L. 1997, c. 353 (<a href="#">C. 2C:21-4.3</a>), or an offense which, if committed in this State, would constitute health care claims fraud, insurance fraud pursuant to section 73 of P.L.2003, c.89 (<a href="#">C.2C:21-4.6</a>), or an offense which, if committed in this State, would constitute insurance fraud.</p> <p>f. Nothing in this section shall be construed to prevent or limit the appropriate licensing agency or any other party from taking any other action permitted by law against the practitioner.<br/><b>History:</b> L. <a href="#">1997, c. 353</a>, § 4; amended <a href="#">2003, c. 82</a>, § 76.</p> <p>N.J. Stat. § 17:33A-1<br/><b>New Jersey Insurance Fraud Prevention Act.</b><br/><a href="http://www.nj.gov/oag/insurancefraud/pdfs/fraud-prevention-act.pdf">http://www.nj.gov/oag/insurancefraud/pdfs/fraud-prevention-act.pdf</a></p> <p>N.J. Stat. § 17:33A-4<br/><b>Actions which violate act</b></p> <p>a. A person or a practitioner violates this act if he:</p> <p>(1) Presents or causes to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy or the “Unsatisfied Claim and Judgment Fund Law,” P.L.1952, c. 174 (<a href="#">C.39:6-61 et seq.</a>), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or</p> <p>(2) Prepares or makes any written or oral statement that is intended to be presented to any insurance company, the Unsatisfied Claim and Judgment Fund, or any claimant thereof in connection with, or in support of or opposition to any claim for payment or other benefit pursuant to an insurance policy or the “Unsatisfied Claim and Judgment Fund Law,” P.L.1952, c. 174 (<a href="#">C.39:6-61 et seq.</a>), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or</p> <p>(3) Conceals or knowingly fails to disclose the occurrence of an event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled;</p> <p>(4) Prepares or makes any written or oral statement, intended to be presented to any insurance company or producer for the purpose of obtaining:</p> <p>(a) a motor vehicle insurance policy, that the person to be insured maintains a principal residence in this State when, in fact, that person's principal residence is in a state other than this State; or</p> <p>(b) an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to an insurance application or contract;</p> <p>(5) Conceals or knowingly fails to disclose any evidence, written or oral, which may be relevant to a finding that a violation of the provisions of paragraph (4) of this subsection a. has or has not occurred; or</p> <p>(6) Prepares, presents or causes to be presented to any insurer or other person, or demands or requires the issuance of, a certificate of insurance that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference, or assists, abets, solicits or conspires with another to do any of these acts. As used in this paragraph, “certificate of insurance” means a document or instrument, regardless of how titled or described, that is, or purports to be, prepared or issued by an insurer or insurance producer as evidence of property or casualty insurance coverage. The term shall not include a policy of insurance, insurance binder, policy endorsement, or automobile insurance identification or information card.</p> <p>b. A person or practitioner violates this act if he knowingly assists, conspires with, or urges any person or practitioner to violate any of the provisions of this act.</p> <p>c. A person or practitioner violates this act if, due to the assistance, conspiracy or urging of any person or practitioner, he knowingly benefits, directly or indirectly, from the proceeds derived from a violation of this act.</p> <p>d. A person or practitioner who is the owner, administrator or employee of any hospital violates this act if he knowingly allows the use of the facilities of the hospital by any person in furtherance of a scheme or conspiracy to violate any of the provisions of this act.</p> <p>e. A person or practitioner violates this act if, for pecuniary gain, for himself or another, he directly or indirectly solicits any person or practitioner to engage, employ or retain either himself or any other person to manage, adjust or prosecute any claim or cause of action, against any person, for damages for negligence, or, for pecuniary gain, for himself or another, directly or indirectly solicits other persons to bring causes of action to recover</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>damages for personal injuries or death, or for pecuniary gain, for himself or another, directly or indirectly solicits other persons to make a claim for personal injury protection benefits pursuant to P.L.1972, c. 70 (<a href="#">C.39:6A-1 et seq.</a>); provided, however, that this subsection shall not apply to any conduct otherwise permitted by law or by rule of the Supreme Court.</p> <p>f. A person who operates a motor vehicle on the public highways of this State, which motor vehicle is insured by a policy issued under the laws of another state, and who maintains a principal residence in this State or who has his motor vehicle principally garaged in this State violates the provisions of P.L.1983, c. 320 (<a href="#">C.17:33A-1 et seq.</a>) if he has knowingly prepared or made any written or oral statement, presented to any insurance company or producer licensed to transact the business of insurance under the laws of that other state, and which resulted in obtaining a motor vehicle insurance policy for his motor vehicle in that other state, that the person to be insured:</p> <p>(1) Maintains a principal residence in the other state when, in fact, that person's principal residence is in this State; or</p> <p>(2) Has his vehicle principally garaged in the other state, when, in fact, that person has his motor vehicle principally garaged in this State.</p> <p>This subsection shall not apply to a person who insures a vehicle in another state, as permitted by and in accordance with the laws of that state, based on a second residence, or attendance at an educational institution, in that other state, if in obtaining the policy the person truthfully discloses to the insurance company or producer the state of the person's principal residence and the state where the vehicle is principally garaged.</p> <p>g. A person, organization, or business violates the provisions of P.L.1983, c. 320 (<a href="#">C.17:33A-1 et seq.</a>) if such person, organization, or business purposely or knowingly:</p> <p>(1) Makes a false or misleading statement, representation, or submission, including failing to properly classify employees in violation of state wage, benefit and tax laws as defined in section 1 of <a href="#">P.L.2009, c. 194 (C.34:1A-1.11)</a>, for the purpose of evading the full payment of insurance benefits or premiums; or</p> <p>(2) Coerces, solicits, or encourages, or employs, contracts, or otherwise conspires with a person to coerce, solicit, or encourage, any individual to make a false or misleading statement, representation or submission concerning any fact that is material to a claim for insurance benefits, or the payment of insurance benefits or insurance premiums, for the purpose of wrongfully obtaining the benefits or of evading the full payment of the insurance benefits or insurance premiums.</p> <p>Credits</p> <p><b>L.1983, c. 320, § 4, eff. Nov. 28, 1983. Amended by <a href="#">L.1991, c. 331, § 2, eff. Jan. 2, 1992</a>; <a href="#">L.1995, c. 132, § 1, eff. Aug. 21, 1995</a>; <a href="#">L.1997, c. 151, § 3, eff. June 30, 1997</a>; <a href="#">L.2015, c. 48, § 2, eff. May 7, 2015</a>; <a href="#">L.2015, c. 195, § 10, eff. April 10, 2016</a>; <a href="#">L.2021, c. 167, § 2, eff. Jan. 1, 2022</a>.</b></p> <p><b>N.J. Stat. § 17:33A-5 - Violations; penalties; costs and attorney fees; consent agreements; disposition of penalties</b></p> <p>a. Whenever the commissioner<sup>1</sup> determines that a person has violated any provision of P.L.1983, c. 320 (<a href="#">C.17:33A-1 et seq.</a>), the commissioner may either:</p> <p>(1) bring a civil action in accordance with subsection b. of this section; or</p> <p>(2) levy a civil administrative penalty and order restitution in accordance with subsection c. of this section.</p> <p>In addition to or as an alternative to the remedies provided in this section, the commissioner may request the Attorney General to bring a criminal action under applicable criminal statutes. Additionally, nothing in this section shall be construed to preclude the commissioner from referring the matter to appropriate state licensing authorities, including the insurance producer licensing section in the Department of Banking and Insurance, for consideration of licensing actions, including license suspension or revocation.</p> <p>b. Any person who violates any provision of P.L.1983, c. 320 (<a href="#">C.17:33A-1 et seq.</a>) shall be liable, in a civil action brought by the commissioner in a court of competent jurisdiction, for a penalty of not more than \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for each subsequent violation, provided that if the person violates section 4 of P.L.1983, c. 320 (<a href="#">C.17:33A-4</a>) the penalty shall be \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for each subsequent violation. The penalty shall be paid to the commissioner to be used in accordance with subsection e. of this section. The court shall also award court costs and reasonable attorneys' fees to the commissioner.</p> <p>c. The commissioner is authorized to assess a civil and administrative penalty of not more than \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for each subsequent violation of any provision of P.L.1983, c. 320 (<a href="#">C.17:33A-1 et seq.</a>) and to order restitution to any insurance company or other person who has suffered a loss as a result of a violation of P.L.1983, c. 320 (<a href="#">C.17:33A-1 et seq.</a>), provided that if the provision violated was subsection g. of section 4 of P.L.1983, c. 320 (<a href="#">C.17:33A-4</a>), the commissioner shall assess a civil and administrative penalty of \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for each subsequent violation and shall order restitution to any insurance company or other person who has suffered a loss as a result of a violation of subsection g. of section 4 of P.L.1983, c. 320 (<a href="#">C.17:33A-4</a>). No assessment shall be levied pursuant to this subsection until the violator has been notified by certified mail or personal service. The notice shall contain a concise statement of facts providing the basis for the determination of a violation of P.L.1983, c. 320 (<a href="#">C.17:33A-1 et seq.</a>), the provisions of that act violated, a statement of the amount of civil penalties assessed and a statement of the party's right to a hearing in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (<a href="#">C.52:14B-1 et seq.</a>). The noticed party shall have 20 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing containing an answer to the statement of facts contained in the notice. After the hearing and upon a finding that a violation has occurred, the commissioner may issue a final order assessing up to the amount of the penalty in the notice, restitution, and costs of prosecution, including attorneys' fees. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order.</p> <p>Any penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to “the penalty enforcement law,” <a href="#">N.J.S.2A:58-1 et seq.</a> The Superior Court shall have jurisdiction to enforce the provisions of “the penalty enforcement law” in connection with P.L.1983, c. 320 (<a href="#">C.17:33A-1 et seq.</a>). Any penalty collected pursuant to this subsection shall be used in accordance with subsection e. of this section.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>d. Nothing in this section shall be construed to prohibit the commissioner and the person or practitioner alleged to be guilty of a violation of this act from entering into a written agreement in which the person or practitioner does not admit or deny the charges but consents to payment of the civil penalty. A consent agreement may contain a provision that it shall not be used in a subsequent civil or criminal proceeding relating to any violation of this act, but notification thereof shall be made to a licensing authority in the same manner as required pursuant to subsection c. of section 10 of P.L.1983, c. 320 (<a href="#">C.17:33A-10</a>). The existence of a consent agreement under this subsection shall not preclude any licensing authority from taking appropriate administrative action against a licensee over which it has regulatory authority, nor shall such a consent agreement preclude referral to law enforcement for consideration of criminal prosecution.</p> <p>e. The New Jersey Automobile Full Insurance Underwriting Association and Market Transition Facility Auxiliary Fund (hereinafter referred to as the “fund”) is established as a nonlapsing, revolving fund into which shall be deposited all revenues from the civil penalties imposed pursuant to this section. Interest received on moneys in the fund shall be credited to the fund. The fund shall be administered by the Commissioner of Banking and Insurance and shall be used to help defray the operating expenses of the New Jersey Automobile Full Insurance Underwriting Association created pursuant to P.L.1983, c. 65 (<a href="#">C.17:30E-1 et seq.</a>) or shall be used to help defray the operating expenses of the Market Transition Facility created pursuant to section 88 of P.L.1990, c. 8 (<a href="#">C.17:33B-1f</a>).</p> <p><b>Credits</b><br/>L.1983, c. 320, § 5, eff. Nov. 28, 1983. Amended by L.1987, c. 358, § 1, eff. Jan. 5, 1988; <a href="#">L.1991, c. 331, § 3, eff. Jan. 2, 1992</a>; <a href="#">L.1994, c. 57, § 19, eff. June 29, 1994</a>; <a href="#">L.1997, c. 151, § 4, eff. June 30, 1997</a>; <a href="#">L.2021, c. 167, § 3, eff. Jan. 1, 2022</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>N.J. Stat. § 2A:32C-5 - Attorney General investigations; cause of action by individuals; pleadings and proceedings; intervention</b></p> <p>a. The Attorney General shall investigate a violation of this act.<a href="#">1</a> If the Attorney General finds that a person has violated or is violating this act, the Attorney General may bring a civil action in State or federal court against the person. The Superior Court shall have jurisdiction over a State action brought pursuant to this act.</p> <p>b. A person may bring a civil action for a violation of this act for the person and for the State. Civil actions instituted under this act shall be brought in the name of the State of New Jersey.</p> <p>c. A complaint filed by a person under this act shall remain under seal for at least 60 days and shall not be served on the defendant until the court so orders. Once filed, the action may be voluntarily dismissed by the person bringing the action if the Attorney General gives written consent to the dismissal along with the reason for consenting, and the court approves the dismissal.</p> <p>d. A complaint alleging a false claim filed under this act shall be so designated when filed, in accordance with the Rules Governing the Courts of the State of New Jersey. Immediately upon filing of the complaint, the plaintiff shall serve by registered mail, return receipt requested, the Attorney General with a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses. The Attorney General 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.</p> <p>e. (Deleted by amendment, <a href="#">P.L.2009, c. 265</a>)</p> <p>f. The Attorney General may, for good cause shown, request that the court extend the time during which the complaint remains under seal. Any such motion may be supported by affidavits or other submissions in camera.</p> <p>g. Before the expiration of the 60-day period or any extensions obtained under subsection f., the Attorney General shall:</p> <p>(1) file a pleading with the court that he intends to proceed with the action, in which case the action is conducted by the Attorney General and the seal shall be lifted; or</p> <p>(2) file a pleading with the court that he declines to proceed with the action, in which case the seal shall be lifted and the person bringing the action shall have the right to conduct the action.</p> <p>h. The defendant's answer to any complaint filed under this act shall be filed in accordance with the Rules Governing the Courts of the State of New Jersey after the complaint is unsealed and served upon the defendant.</p> <p>i. When a person files an action under this act, no other person except the State may intervene or bring a related action based on the facts underlying the pending action.</p> <p>Credits<br/><a href="#">L.2007, c. 265, § 5, eff. March 13, 2008</a>. Amended by <a href="#">L.2009, c. 265, § 1, eff. Jan. 17, 2010</a></p> <p><b>N.J.S.A. 2A:32C-9 - Civil liability of certain government officials; actions by former government employees</b></p> <p>a. No member of the Legislature, a member of the Judiciary, a senior Executive branch official, or a member of a county or municipal governing body may be civilly liable if the basis for an action is premised on evidence or information known to the State when the action was brought. For purposes of this subsection, the term “senior Executive branch official” means any person employed in the Executive branch of government holding a position having substantial managerial, policy-influencing or policy-executing responsibilities.</p> <p>b. A person may not bring an action under this act<sup>1</sup> based upon allegations or transactions that are the subject of a pending action or administrative proceeding to which the State is already a party.</p> <p>c. No action brought under this act shall be based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in an investigation, report, hearing or audit conducted by or at the request of the Legislature or by the news media, unless the action is brought by the Attorney General, or unless the person bringing the action is an original source of the information. For purposes of this subsection, the</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>term “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 State before filing an action under this act based on the information.</p> <p>d. No action may be brought under this act by a present or former employee or agent of the State or any political subdivision thereof when the action is based upon information discovered in any civil, criminal or <b>administrative investigation or audit which investigation or audit was within the scope of the employee's or agent's duties or job description.</b></p> <p><b>Credits</b><br/><u><a href="#">L.2007, c. 265, § 9, eff. March 13, 2008.</a></u> Amended by <u><a href="#">L.2009, c. 265, § 3, eff. Jan. 17, 2010.</a></u></p> <p>N.J. Stat. § 2A:32C-7</p> <p><b>Distribution of proceeds</b></p> <p>a. If the Attorney General proceeds with and prevails in an action brought by a person under this act, except as provided in subsection b., the court shall order the distribution to the person of at least 15% but not more than 25% of the proceeds recovered under any judgment obtained by the Attorney General under this act or of the proceeds of any settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action.</p> <p>b. If the Attorney General proceeds with an action which the court finds to be based primarily on disclosures of specific information, other than that provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing; a legislative, administrative, or inspector general report, hearing, audit, or investigation; or from the news media, the court may award such sums as it considers appropriate, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.</p> <p>c. The Attorney General shall receive a fixed 10% of the proceeds in any action or settlement of the claim that it brings, which shall be deposited in the "False Claims Prosecution Fund" established in section 13 [C.2A:32C-13] of this act and shall only be used to support its ongoing investigation and prosecution of false claims pursuant to the provisions of this act.</p> <p>d. If the Attorney General 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 of a claim under this act.</p> <p>e. Following any distributions under subsection a., b., c. or d. of this section the State entity injured by the submission of a false claim shall be awarded an amount not to exceed its compensatory damages. Any remaining proceeds, including civil penalties awarded under this act, shall be deposited in the General Fund.</p> <p>f. Any payment under this section to the person bringing the action shall be paid only out of the proceeds recovered from the defendant.</p> <p>g. Whether or not the Attorney General proceeds with the action, if the court finds that the action was brought by a person who knowingly planned and initiated the violation of this act 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 which 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 role in the violation of this act the 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 Attorney General to continue the action.</p> <p>History: L. <u><a href="#">2007, c. 265, § 7, eff. Mar. 13, 2008.</a></u></p> |
|                 | <p><b>Whistle-blower Protections</b></p> <p><b>N.J. Stat. § 2A:32C-10 - Disclosure of information by employee, employee protections</b></p> <p>a. No employer shall make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a State or law enforcement agency or from acting to further a false claims action, including investigating, initiating, testifying, or assisting in an action filed or to be filed under this act.</p> <p>b. No employer shall 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 lawful acts done by the employee on behalf of the employee or others in disclosing information to a State or law enforcement agency or in furthering a false claims action, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this act.</p> <p>c. An employer who violates subsection b. of this section shall be liable for all relief necessary to make the employee whole, including reinstatement with the same seniority status such employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, compensation for any special damage sustained as a result of the discrimination, and, where appropriate, punitive damages. In addition, the defendant shall be required to pay litigation costs and reasonable attorney's fees associated with an action brought under this section. An employee may bring an action in the Superior Court for the relief provided in this</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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|                                                                                                       | <p>subsection.</p> <p>d. An employee who is discharged, demoted, suspended, harassed, denied promotion, or in any other manner discriminated against in the terms and conditions of employment by his employer because of participation in conduct which directly or indirectly resulted in a false claim being submitted to the State shall be entitled to the remedies under subsection c. of this section if, and only if, both of the following occurred:</p> <p>(1) The employee voluntarily disclosed information to a State or law enforcement agency or acts in furtherance of a false claims action, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed.</p> <p>(2) The employee had been harassed, threatened with termination or demotion, or otherwise coerced by the employer or its management into engaging in the fraudulent activity in the first place.</p> <p>History: L. <a href="#">2007, c. 265</a>, § 10, eff. Mar. 13, 2008.</p> <p><b>N.J. Stat. § 34:19-1 - CONSCIENTIOUS EMPLOYEE PROTECTION ACT</b></p> <p><b>N.J. Stat. § 34:19-3 - Retaliatory action prohibited</b></p> <p>An employer shall not take any retaliatory action against an employee because the employee does any of the following:</p> <p>a. Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer, or another employer, with whom there is a business relationship, that the employee reasonably believes:</p> <p>(1) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care; or</p> <p>(2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity;</p> <p>b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer, or another employer, with whom there is a business relationship, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into the quality of patient care; or</p> <p>c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:</p> <p>(1) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;</p> <p>(2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity; or</p> <p>(3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.</p> <p>History: L. 1986, c. 105, § 3; amended <a href="#">1989, c. 220</a>; <a href="#">1997, c. 98</a>, § 2; <a href="#">2005, c. 329</a>, § 1, eff. Jan. 12, 2006.</p> |
| <a href="#">New Mexico/</a><br>Medicaid False Claims Act<br>N.M. Stat. Ann. § 27-14- 1 <i>et seq.</i> | <p><b><a href="#">Criminal and Civil Penalties for False Claims and Statements</a></b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://www.hsd.state.nm.us/lookingforassistance/report_fraud/">https://www.hsd.state.nm.us/lookingforassistance/report_fraud/</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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| New Mexico/ This act [ <del>44-9-1 to 44-9-14 NMSA</del> 1978] may be cited as the "Fraud Against Taxpayers Act".<br><br>Medicaid Fraud Act<br>N.M. Stat. Ann. § 30-44-1 - 8 | <p><a href="https://www.hsd.state.nm.us/about_the_department/office_of_inspector_general/">https://www.hsd.state.nm.us/about_the_department/office_of_inspector_general/</a></p> <p>N.M. Stat. Ann. § 27-14-1<br/>Short title - "<b>Medicaid False Claims Act</b>".<br/><b>N.M. Stat. Ann. § 27-14-2 - Purpose</b><br/>The purpose of the Medicaid False Claims Act [<del>27-14-1 NMSA</del> 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.<br/><b>HISTORY:</b> <a href="#">Laws 2004, ch. 49, § 2.</a></p> <p><b>N.M. Stat. Ann. § 27-14-3 - Definitions</b></p> <p>As used in the Medicaid False Claims Act [<del>27-14-1 NMSA</del> 1978]:</p> <p>A. "claim" means a written or electronically submitted request for payment of health care services pursuant to the medicaid program;</p> <p>B. "department" means the human services department;</p> <p>C. "medicaid" means the federal-state program administered by the human services department pursuant to Title 19 or Title 21 of the federal Social Security Act;</p> <p>D. "medicaid recipient" means an individual on whose behalf a person claims or receives a payment from the medicaid program, regardless of whether the individual was eligible for the medicaid program; and</p> <p>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.<br/><b>HISTORY:</b> <a href="#">Laws 2004, ch. 49, § 3.</a></p> <p><b>N.M. Stat. Ann. § 27-14-4 - False claims against the state; liability for certain acts</b></p> <p>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:</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>H. knowingly makes a claim under the Medicaid program for a service or product that was not provided.<br/><b>HISTORY:</b> <a href="#">Laws 2004, ch. 49, § 4.</a></p> <p><b><i>N.M. Stat. Ann. § 27-14-6 - Immunity</i></b></p> <p>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.</p> <p><b>HISTORY:</b> Laws 2004, ch. 49, § 6</p> <p>N.M. Stat. Ann. § 44-9-1<br/>Short title - "<b>Fraud Against Taxpayers Act</b>".</p> <p><b>N.M. Stat. Ann. § 44-9-2 - Definitions</b></p> <p>As used in the Fraud Against Taxpayers Act:</p> <p><b>A.</b> "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;</p> <p><b>B.</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;</p> <p><b>C.</b> "knowingly" means that a person, with respect to information, acts:</p> <p><b>(1)</b> with actual knowledge of the truth or falsity of the information;</p> <p><b>(2)</b> in deliberate ignorance of the truth or falsity of the information; or</p> <p><b>(3)</b> in reckless disregard of the truth or falsity of the information;</p> <p><b>D.</b> "person" means an individual, corporation, firm, association, organization, trust, business, partnership, limited liability company, joint venture or any legal or commercial entity;</p> <p><b>E.</b> "political subdivision" means a political subdivision of the state or a charter school; and</p> <p><b>F.</b> "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.<br/><b>HISTORY:</b> <a href="#">Laws 2007, ch. 40, § 2;</a> <a href="#">2015, ch. 128, § 1.</a></p> <p><b>N.M. Stat. Ann. § 44-9-3 - False claims; liability; penalties; exception</b></p> <p><b>A.</b> A person shall not:</p> <p><b>(1)</b> 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;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>(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;</p> <p>(3) conspire to defraud the state or a political subdivision by obtaining approval or payment on a false or fraudulent claim;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(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.</p> <p><b>B.</b> Proof of specific intent to defraud is not required for a violation of Subsection A of this section.</p> <p><b>C.</b> A person who violates Subsection A of this section shall be liable for:</p> <p>(1) three times the amount of damages sustained by the state or political subdivision because of the violation;</p> <p>(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;</p> <p>(3) the costs of a civil action brought to recover damages or penalties; and</p> <p>(4) reasonable attorney fees, including the fees of the attorney general, state agency or political subdivision counsel.</p> <p><b>D.</b> 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:</p> <p>(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;</p> <p>(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</p> <p>(3) the person fully cooperated with any investigation by the attorney general or political subdivision.</p> <p><b>E.</b> This section does not apply to claims, records or statements made pursuant to the provisions of Chapter 7 NMSA 1978.</p> <p><b>HISTORY:</b> <a href="#"><i>Laws 2007, ch. 40, § 3; 2015, ch. 128, § 2.</i></a></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p><b><i>N.M. Stat. Ann. § 44-9-13 - Joint and several liability</i></b></p> <p>Liability shall be joint and several for any act committed by two or more persons in violation of the Fraud Against Taxpayers Act [<i>44-9-1 NMSA</i> 1978].<br/><b>HISTORY:</b> Laws 2007, ch. 40, § 13.</p> <p><b>N.M. Stat. Ann. § 30-40-1 - Failing to disclose facts or change of circumstances to obtain public assistance</b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.<br/><b>HISTORY:</b> Laws 1979, ch. 170, § 1; 1987, ch. 121, § 12; <a href="#"><i>2006, ch. 29, § 18</i></a>.</p> <p><b>N.M. Stat. Ann. § 30-40-2 - Unlawful use of food stamp identification card or medical identification card</b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>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.</p> <p>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.<br/><b>HISTORY:</b> Laws 1979, ch. 170, § 2; 1987, ch. 121, § 13; <a href="#">2006, ch. 29, § 19</a>.</p> <p><b>N.M. Stat. Ann. § 30-40-3 - Misappropriating public assistance</b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.<br/><b>HISTORY:</b> Laws 1979, ch. 170, § 3; 1987, ch. 121, § 14; <a href="#">2006, ch. 29, § 20</a>.</p> <p><b>N.M. Stat. Ann. § 30-40-4 - Making or permitting a false claim for reimbursement for public assistance services</b></p> <p>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.</p> <p>B. Whoever commits making or permitting a false claim for reimbursement for public assistance services is guilty of a fourth degree felony.<br/><b>HISTORY:</b> Laws 1979, ch. 170, § 4.</p> <p><b>N.M. Stat. Ann. § 30-40-5 - Unlawful seeking [of] payment from public assistance recipients</b></p> <p>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.</p> <p>B. Whoever commits unlawful seeking [of] payment from [a] public assistance recipient is guilty of a misdemeanor.<br/><b>HISTORY:</b> Laws 1979, ch. 170, § 5.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p><b>N.M. Stat. Ann. § 30-40-6 - Failure to reimburse the human services department upon receipt of third party payment</b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p><b>HISTORY:</b> Laws 1979, ch. 170, § 6; 1987, ch 121, § 15; <a href="#">2006, ch. 29, § 21</a>.</p> <p><b>N.M. Stat. Ann. § 30-40-7 - Failure to notify the department of receipt of anything of value from public assistance recipient</b></p> <p>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.</p> <p><b>HISTORY:</b> Laws 1979, ch. 170, § 7.</p> <p>N.M. Stat. Ann. § 30-44-1<br/>Short title - "<b>Medicaid Fraud Act</b>".</p> <p>N.M. Stat. Ann. § 30-44-2 - § 30-44-2. Definitions</p> <p>As used in the Medicaid Fraud Act [<del>30-44-1 NMSA</del> 1978] this article]:</p> <p>A. "benefit" means money, treatment, services, goods or anything of value authorized under the program;</p> <p>B. "claim" means any communication, whether oral, written, electronic or magnetic, that identifies a treatment, good or service as reimbursable under the program;</p> <p>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;</p> <p>D. "covered person" means an individual who is entitled to receive health care benefits from a managed health care plan;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>E. "department" means the human services department;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>I. "health care official" means:</p> <p>(1) an administrator, officer, trustee, fiduciary, custodian, counsel, agent or employee of a managed care health plan;</p> <p>(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</p> <p>(3) an official, employee or agent of a state or federal agency with regulatory or administrative authority over a managed health care plan;</p> <p>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;</p> <p>K. "person" includes individuals, corporations, partnerships and other associations;</p> <p>L. "physical harm" means an injury to the body that causes pain or incapacitation;</p> <p>M. "program" means the medical assistance program authorized under Title XIX of the federal Social Security Act, <u>42 U.S.C. 1396</u>, et seq. and implemented under <u>Section 27-2-12 NMSA</u> 1978;</p> <p>N. "provider" means any person who has applied to participate or who participates in the program as a supplier of treatment, services or goods;</p> <p>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> <p>P. "recipient" means any individual who receives or requests benefits under the program;</p> <p>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</p> <p>R. "unit" means the medicaid fraud control unit or any other agency with power to investigate or prosecute fraud and abuse of the program.</p> <p><b>HISTORY:</b> <u>Laws 1982, ch. 286, § 2; 1997, ch. 98, § 2.</u></p> <p>N.M. Stat. Ann. § 30-44-3 - Power to investigate and enforce civil remedies and prosecute criminal actions</p> <p>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 [<u>30-44-1 NMSA</u> 1978] and bring actions to enforce the civil</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>remedies established in the Medicaid Fraud Act.</p> <p>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 [<a href="#">30-44-1 NMSA</a> 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.</p> <p><b>HISTORY:</b> <a href="#">Laws 1989, ch. 286, § 3</a>; <a href="#">1991, ch. 79, § 1</a>.</p> <p><b>N.M. Stat. Ann. § 30-44-4 - Falsification of documents; defined; penalties</b></p> <p>A. Falsification of documents consists of:</p> <p class="list-item">(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 [<a href="#">30-44-1 NMSA</a> 1978] or regulations issued by the department for the administration of the program, or both; or</p> <p class="list-item">(2) knowingly submitting or causing to be submitted false or incomplete information for the purpose of receiving benefits or qualifying as a provider.</p> <p>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 <i>Section 31-18-15 NMSA</i> 1978.</p> <p><b>HISTORY:</b> <a href="#">Laws 1989, ch. 286, § 4</a>.</p> <p><b>N.M. Stat. Ann. § 30-44-5 - Failure to retain records; defined; penalties</b></p> <p>A. Whoever receives payment for treatment, services or goods under the program shall retain all medical and business records relating to:</p> <p class="list-item">(1) the treatment or care of any recipient;</p> <p class="list-item">(2) services or goods provided to any recipient;</p> <p class="list-item">(3) rates paid by the department under the program on behalf of any recipient; and</p> <p class="list-item">(4) any records required to be maintained by regulation of the department for administration of the program.</p> <p>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.</p> <p>C. Whoever commits the crime of failure to retain records:</p> <p class="list-item">(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 <i>Section 31-19-1 NMSA</i> 1978;</p> <p class="list-item">(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</p> <p class="list-item">(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 <i>Section 31-19-1 NMSA</i> 1978.</p> <p><b>HISTORY:</b> <a href="#">Laws 1989, ch. 286, § 5</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p><b>N.M. Stat. Ann. § 30-44-6 - Obstruction of investigation; defined; penalty</b></p> <p>A. Obstruction of investigation consists of:</p> <p>(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</p> <p>(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.</p> <p>B. Whoever commits obstruction of investigation is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of <i>Section 31-18-15 NMSA 1978</i>.</p> <p><b>HISTORY:</b> <a href="#"><i>Laws 1982, ch. 286, § 6.</i></a></p> <p><b>N.M. Stat. Ann. § 30-44-7 - Medicaid fraud; defined; investigation; penalties</b></p> <p>A. Medicaid fraud consists of:</p> <p>(1) paying, soliciting, offering or receiving:</p> <p>(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;</p> <p>(b) a rebate of a fee or charge made to a provider for referring a recipient to a provider;</p> <p>(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</p> <p>(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;</p> <p>(2) providing with intent that a claim be relied upon for the expenditure of public money:</p> <p>(a) treatment, services or goods that have not been ordered by a treating physician;</p> <p>(b) treatment that is substantially inadequate when compared to generally recognized standards within the discipline or industry; or</p> <p>(c) merchandise that has been adulterated, debased or mislabeled or is outdated;</p> <p>(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</p> <p>(4) executing or conspiring to execute a plan or action to:</p> <p>(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>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 <i>Section 31-18-15 NMSA</i> 1978.</p> <p>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:</p> <p>(1) not more than one hundred dollars (\$ 100) is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of <i>Section 31-19-1 NMSA</i> 1978;</p> <p>(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 <i>Section 31-19-1 NMSA</i> 1978;</p> <p>(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 <i>Section 31-18-15 NMSA</i> 1978;</p> <p>(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 <i>Section 31-18-15 NMSA</i> 1978; and</p> <p>(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 <i>Section 31-18-15 NMSA</i> 1978.</p> <p>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 <i>Section 31-18-15 NMSA</i> 1978.</p> <p>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 <i>Section 31-18-15 NMSA</i> 1978.</p> <p>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 be sentenced pursuant to the provisions of <i>Section 31-18-15 NMSA</i> 1978.</p> <p>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.</p> <p>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.</p> <p><b>HISTORY:</b> <a href="#"><i>Laws 1989, ch. 286, § 7</i></a>; <a href="#"><i>1997, ch. 98, § 3</i></a>; <a href="#"><i>2003, ch. 291, § 1</i></a>.</p> <p><b>N.M. Stat. Ann. § 30-44-8 - Civil penalties; created; enumerated; presumption; limitation of action</b></p> <p>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 [<i>30-44-1 NMSA</i></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>1978], shall, in addition to any other penalties or amounts provided by law, be liable for:</p> <p>(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;</p> <p>(2) a civil penalty in an amount of up to three times the amount of excess payments;</p> <p>(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</p> <p>(4) payment of legal fees and costs of investigation and enforcement of civil remedies.</p> <p>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.</p> <p>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.</p> <p>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 [<i>30-44-1 NMSA</i> 1978].</p> <p>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.</p> <p>F. The department may adopt regulations for the administration of the civil penalties contained in this section.</p> <p>G. No action under this section shall be brought after the expiration of five years from the date the action accrues.</p> <p><b>HISTORY:</b> <a href="#"><i>Laws 1989, ch. 286, § 8; 1997, ch. 98, § 4; 2004, ch. 54, § 1.</i></a></p> <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>N.M. Stat. Ann. § 27-14-7 - Civil action for false claims</b></p> <p>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 [<i>27-14-1 NMSA</i> 1978], the department may bring a civil action pursuant to Subsection F of this section.</p> <p>B. A private civil action may be brought by an affected person for a violation of the Medicaid False Claims Act [<i>27-14-1 NMSA</i> 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.</p> <p>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.</p> <p>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.</p> <p>E. Before the expiration of the sixty-day period or any extensions obtained, the department, pursuant to Subsection F of this section, shall:</p> <p>(1) proceed with the action, in which case the action shall be conducted by the department; or</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>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.</p> <p><b>HISTORY:</b> <a href="#">Laws 2004, ch. 49, § 7.</a></p> <p><b>N.M. Stat. Ann. § 27-14-8 - Rights of the parties to qui tam actions</b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p><b>HISTORY:</b> Laws 2004, ch. 49, § 8.</p> <p><b>N.M. Stat. Ann. § 27-14-9 - Award to qui tam plaintiff</b></p> <p>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.</p> <p>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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>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:</p> <p>(1) filed for an improper purpose;</p> <p>(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</p> <p>(3) was based on allegations or factual contentions not supported.</p> <p><b>HISTORY:</b> <a href="#">Laws 2004, ch. 49, § 9.</a></p> <p><b>N.M. Stat. Ann. § 27-14-10 - Certain actions barred</b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p><b>HISTORY:</b> Laws 2004, ch. 49, § 10.</p> <p><b>N.M. Stat. Ann. § 27-14-11 - Department not liable for certain expenses</b></p> <p>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].</p> <p><b>HISTORY:</b> Laws 2004, ch. 49, § 11</p> <p><b>N.M. Stat. Ann. § 27-14-13 - False claims and reporting procedure</b></p> <p>A. A civil action shall be brought within the limitations set forth in <i>Section 37-1-4 NMSA 1978</i>.</p> <p>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.</p> <p>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].</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>HISTORY:</b> Laws 2004, ch. 49, § 13.</p> <p><b><i>N.M. Stat. Ann. § 27-14-14 - Application of other law</i></b></p> <p>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 [<i>27-14-1 NMSA</i> 1978] and civil damages or recovery pursuant to the Medicaid Fraud Act [<i>30-44-1 NMSA</i> 1978] if the civil remedy and the civil damages or recoveries are assessed for the same conduct by another government agency.</p> <p><b>HISTORY:</b> Laws 2004, ch. 49, § 14.</p> <p><b>N.M. Stat. Ann. § 27-14-15 - Use of funds</b></p> <p>A. Damages collected pursuant to the Medicaid False Claims Act [<i>27-14-1 NMSA</i> 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.</p> <p>B. Penalties, legal fees or costs of investigation recovered pursuant to the Medicaid False Claims Act [<i>27-14-1 NMSA</i> 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.</p> <p>C. Pursuant to Subsection C of <a href="#"><i>Section 30-44-8 NMSA</i></a> 1978, penalties recovered pursuant to the Medicaid False Claims Act [<i>27-14-1 NMSA</i> 1978] on behalf of the state may be claimed by the attorney general pursuant to procedures established by the department and the attorney general.</p> <p><b>HISTORY:</b> <a href="#"><i>Laws 2004, ch. 49, § 15.</i></a></p> <p><b>FRAUD AGAINST TAXPAYERS ACT</b></p> <p><i>N.M. Stat. Ann. § 44-9-4</i> - Investigation by the attorney general; delegation; civil action</p> <p>A. The attorney general shall diligently investigate suspected violations of <a href="#"><i>Section 44-9-3 NMSA 1978</i></a>, 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.</p> <p>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 <b>or political subdivision, all references to the attorney general in the Fraud Against Taxpayers Act shall apply to the delegee.</b></p> <p><b>Credits</b></p> <p>Added by <a href="#"><i>L. 2007, Ch. 40, § 4, eff. July 1, 2007.</i></a> Amended by <a href="#"><i>L. 2015, Ch. 128, § 3, eff. June 19, 2015.</i></a></p> <p><b>N.M. Stat. Ann. § 44-9-5 -</b></p> <p><b>Civil action by qui tam plaintiff; state or political subdivision may intervene</b></p> <p><a href="#"><i>Currentness</i></a></p> <p>A. A person may bring a civil action for a violation of <a href="#"><i>Section 44-9-3 NMSA 1978</i></a> 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.</p> <p>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.</p> <p>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.</p> <p>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:</p> <p>(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</p> <p>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>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.</p> <p><b>Credits</b><br/>Added by <a href="#">L. 2007, Ch. 40, § 5, eff. July 1, 2007</a>. Amended by <a href="#">L. 2015, Ch. 128, § 4, eff. June 19, 2015</a>.</p> <p><i>N.M. Stat. Ann. § 44-9-6</i></p> <p><b>Rights of the qui tam plaintiff and the state or political subdivision</b><br/><a href="#">Currentness</a></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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:</p> <p>(1) limiting the number of witnesses the qui tam plaintiff may call;</p> <p>(2) limiting the length of testimony of such witnesses;</p> <p>(3) limiting the qui tam plaintiff's cross examination of witnesses; or</p> <p>(4) otherwise limiting the qui tam plaintiff's participation in the litigation.</p> <p>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.</p> <p>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.</p> <p>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 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.</p> <p>H. Notwithstanding the provisions of <a href="#">Section 44-9-5 NMSA 1978</a>, 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 <b>appeal with respect to the finding or conclusion has expired or if the finding or conclusion is not subject to judicial review.</b></p> <p><b>Credits</b><br/>Added by <a href="#">L. 2007, Ch. 40, § 6, eff. July 1, 2007</a>. Amended by <a href="#">L. 2015, Ch. 128, § 5, eff. June 19, 2015</a>.</p> <p><b>N.M. Stat. Ann. § 44-9-7 -</b><br/><b>Awards to qui tam plaintiff and the state or political subdivision</b><br/><a href="#">Currentness</a></p> <p>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:</p> <p>(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>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.</p> <p>C. Whether or not the state or political subdivision proceeds with an action brought by a qui tam plaintiff:</p> <p>(1) if the court finds that the action was brought by a person that planned or initiated the violation of <a href="#">Section 44-9-3 NMSA 1978</a> 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</p> <p>(2) if the person bringing the action is convicted of criminal conduct arising from that person's role in the violation of <a href="#">Section 44-9-3 NMSA 1978</a> 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.</p> <p>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.</p> <p>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.</p> <p>F. Proceeds and penalties collected by the state or political subdivision shall be deposited as follows:</p> <p>(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;</p> <p>(2) civil penalties shall be deposited in the current school fund pursuant to <a href="#">Article 12, Section 4 of the constitution of New Mexico</a>;</p> <p>(3) except as provided in Paragraph (4) of this subsection, all remaining proceeds shall be deposited as follows:</p> <p>(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</p> <p>(b) one-half into the general fund; or</p> <p>(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.</p> <p><b>Credits</b><br/>Added by <a href="#">L. 2007, Ch. 40, § 7, eff. July 1, 2007</a>. Amended by <a href="#">L. 2015, Ch. 128, § 6, eff. June 19, 2015</a>.</p> <p><b>N.M. Stat. Ann. § 44-9-8 - Award of attorney fees and costs to defendant</b><br/>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.</p> <p><b>Credits</b><br/>Added by <a href="#">L. 2007, Ch. 40, § 8, eff. July 1, 2007</a>. Amended by <a href="#">L. 2015, Ch. 128, § 7, eff. June 19, 2015</a>.</p> <p><b>N.M. Stat. Ann. § 44-9-9 - Certain actions barred</b></p> <p>A. No court shall have jurisdiction over an action brought pursuant to <a href="#">Section 44-9-5 NMSA 1978</a> 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.</p> <p>B. No court shall have jurisdiction over an action brought pursuant to <a href="#">Section 44-9-5 NMSA 1978</a> 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.</p> <p>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 <a href="#">Section 44-9-5 NMSA 1978</a> 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.</p> <p>D. Upon motion of the attorney general or political subdivision, a court may, in its discretion, dismiss an action brought pursuant to <a href="#">Section 44-9-5 NMSA 1978</a> if the elements of the alleged false or fraudulent <b>claim have been publicly disclosed in the news media or in a publicly disseminated governmental report at the time the complaint is filed.</b></p> <p><b>Credits</b><br/>Added by <a href="#">L. 2007, Ch. 40, § 9, eff. July 1, 2007</a>. Amended by <a href="#">L. 2015, Ch. 128, § 8, eff. June 19, 2015</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p><b>N.M. Stat. Ann. § 44-9-10 - State or political subdivision not liable</b><br/>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.<br/>Credits<br/>Added by <a href="#">L. 2007, Ch. 40, § 10, eff. July 1, 2007</a>. Amended by <a href="#">L. 2015, Ch. 128, § 9, eff. June 19, 2015</a>.</p> <p><b>N.M. Stat. Ann. § 44-9-12 - Limitation of actions; estoppel; standard of proof</b><br/>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.<br/>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.<br/>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.<br/>Credits<br/>Added by <a href="#">L. 2007, Ch. 40, § 12, eff. July 1, 2007</a>. Amended by <a href="#">L. 2015, Ch. 128, § 10, eff. June 19, 2015</a>.</p> <p>N.M. Stat. Ann. § 44-9-13 - Joint and several liability<br/>Liability shall be joint and several for any act committed by two or more persons in violation of the Fraud Against Taxpayers Act [<a href="#">44-9-1 NMSA</a> 1978].<br/><b>HISTORY:</b> <a href="#">Laws 2007, ch. 40, § 13</a>.</p> <p><b>N.M. Stat. Ann. § 44-9-14 - Remedy not exclusive</b><br/>The remedies provided for in the Fraud Against Taxpayers Act [<a href="#">44-9-1 NMSA</a> 1978] are not exclusive and shall be in addition to any other remedies provided for in any other law or available under common law.<br/><b>HISTORY:</b> Laws 2007, ch. 40, § 14</p>                                                                                                                                                                                                                                                                                                            |
|                 | <p><b>Whistle-blower Protections</b></p> <p><b>N.M. Stat. Ann. § 27-14-12 - Employee protection</b></p> <p>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 [<a href="#">27-14-1 NMSA</a> 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.<br/><b>HISTORY:</b> <a href="#">Laws 2004, ch. 49, § 12</a>.</p> <p><b>FRAUD AGAINST TAXPAYERS ACT</b><br/>N.M. Stat. Ann. § 44-9-11<br/><b>Employer interference with employee disclosure; private action for retaliation</b><br/>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 [<a href="#">44-9-1 NMSA</a> 1978].<br/><br/>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 [<a href="#">44-9-1 NMSA</a> 1978].<br/><br/>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</p> |









| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>NY STATE FIN § 188</p> <p><b>- Definitions</b></p> <p>As used in this article, the following terms shall mean:</p> <p>1. "Claim"</p> <p>(a) means any request or demand, whether under a contract or otherwise, for money or property that</p> <p>(i) is presented to an officer, employee or agent of the state or a local government; or</p> <p>(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the state or a local government's behalf or to advance a state or local government program or interest, and if the state or local government (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;</p> <p>(b) does not include requests or demands for money or property that the state or a local government has already paid to an individual as compensation for government employment or as an income subsidy with no restrictions on that individual's use of the money or property.</p> <p>2. "False claim" means any claim which is, either in whole or part, false or fraudulent.</p> <p>3. "Knowing and knowingly"</p> <p>(a) means that a person, with respect to information:</p> <p>(i) has actual knowledge of the information;</p> <p>(ii) acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(iii) acts in reckless disregard of the truth or falsity of the information; and</p> <p>(b) require no proof of specific intent to defraud, provided, however that acts occurring by mistake or as a result of mere negligence are not covered by this article.</p> <p>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 the retention of any overpayment.</p> <p>5. "Material" means having a natural tendency to influence, or be capable of influencing the payment or receipt of money or property.</p> <p>6. "Local government" means any New York county, city, town, village, school district, board of cooperative educational services, local public benefit corporation or other municipal corporation or political subdivision of the state, or of such local government.</p> <p>7. "Original source" means a person who (a) prior to a public disclosure under paragraph (b) of subdivision nine of section one hundred ninety of this article has voluntarily disclosed to the state or a local government the information on which allegations or transactions in a cause of action are based, or (b) 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 state or a local government before or simultaneous with filing an action under this article.</p> <p>8. "Person" means any natural person, partnership, corporation, association or any other legal entity or individual, other than the state or a local government.</p> <p>9. "State" means the state of New York 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 the state.</p> <p>📌 <b>Legislative History:</b></p> <p>Add, <a href="#">L 2007, ch 58, § 39</a> (Part C), eff April 9, 2007, deemed eff on and after April 1, 2007 (see 2007 note below); amd, <a href="#">L 2010, ch 379, § 1</a>, eff Aug 27, 2010 (see 2010 note below).</p> <p><b>NY STATE FIN § 189 - Liability for certain act</b></p> |

| State /Citation                                                 | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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| Services Law §145-c Sanctions                                   | <p>1. Subject to the provisions of subdivision two of this section, any person who:</p> <p>(a) knowingly presents, or causes to be presented a false or fraudulent claim for payment or approval;</p> <p>(b) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;</p> <p>(c) conspires to commit a violation of paragraph (a), (b), (d), (e), (f) or (g) of this subdivision;</p> <p>(d) has possession, custody, or control of property or money used, or to be used, by the state or a local government and knowingly delivers, or causes to be delivered, less than all of that money or property;</p> <p>(e) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state or a local government and, intending to defraud the state or a local government, makes or delivers the receipt without completely knowing that the information on the receipt is true;</p> <p>(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 local government knowing that the officer or employee violates a provision of law when selling or pledging such property;</p> <p>(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 a local government; or</p> <p>(h) knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state or a local government, or conspires to do the same; shall be liable to the state or a local government, as applicable, for a civil penalty of not less than six thousand dollars and not more than twelve thousand dollars, as adjusted to be equal to the civil penalty allowed under the federal False Claims Act, <a href="#">31 U.S.C. sec. 3729, et seq.</a>, as amended, as adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (<a href="#">28 U.S.C. 2461</a> note; <a href="#">Pub. L. No. 101-410</a>), plus three times the amount of all damages, including consequential damages, which the state or local government sustains because of the act of that person.</p> <p>2. The court may assess not more than two times the amount of damages sustained because of the act of the person described in subdivision one of this section, if the court finds that:</p> <p>(a) the person committing the violation of this section had furnished all information known to such person about the violation, to those officials responsible for investigating false claims violations on behalf of the state and any local government that sustained damages, within thirty days after the date on which such person first obtained the information;</p> <p>(b) such person fully cooperated with any government investigation of such violation; and</p> <p>(c) at the time such person furnished 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.</p> <p>3. A person who violates this section shall also be liable for the costs, including attorneys' fees, of a civil action brought to recover any such penalty or damages.</p> <p>4. (a) This section shall apply to tax law violations only if: (i) the net income or sales of the person against whom the action is brought equals or exceeds one million dollars for any taxable year subject to any action brought pursuant to this article; and (ii) the damages pleaded in such action exceed three hundred and fifty thousand dollars; provided that for purposes of applying paragraph (h) of subdivision one of this section to a tax law violation, the person is alleged to have knowingly concealed or knowingly and improperly avoided an obligation to pay taxes to the state or a local government.</p> <p>(b) The attorney general shall consult with the commissioner of the department of taxation and finance prior to filing or intervening in any action under this article that is based on a violation of the tax law. If the state declines to participate or to authorize participation by a local government in such an action pursuant to <a href="#">subdivision two of section one hundred ninety</a> of this article, the qui tam plaintiff must obtain approval from the attorney general before making any motion to compel the department of taxation and finance to disclose tax records.</p> <p><b>Credits</b></p> <p>(Added <a href="#">L.2007, c. 58, pt. C, § 39, eff. April 9, 2007, deemed eff. April 1, 2007</a>. Amended <a href="#">L.2010, c. 379, §§ 2, 3, eff. Aug. 27, 2010</a>; <a href="#">L.2013, c. 56, pt. A, § 8, eff. March 28, 2013, deemed eff. April 1, 2013</a>; <a href="#">L.2018, c. 57, pt. J, § 1, eff. Sept. 30, 2018</a>; <a href="#">L.2023, c. 59, pt. DD, § 1, eff. May 3, 2023</a>.)</p> |
| Social Services Law §145 Penalties                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      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| Social Services Law § 366-b, Penalties for Fraudulent Practices | <p><b>NY STATE FIN § 193 - Other law enforcement authority and duties</b></p> <p>This article shall not:</p> <p>1. preempt the authority, or relieve the duty, of other law enforcement agencies to investigate and prosecute suspected violations of law;</p> <p>2. prevent or prohibit a person from voluntarily disclosing any information concerning a violation of this article to any law enforcement agency; or</p> <p>3. limit any of the powers granted elsewhere in this chapter and other laws to the attorney general or state agencies or local governments to investigate possible violations of this article and take appropriate action against wrongdoers.</p> <p>📌 <b>Legislative History:</b> History: Add, <a href="#">L.2007, ch 58, § 39</a> (Part C), eff April 9, 2007, deemed eff on and after April 1, 2007 (see 2007 note below).</p> <p>NY Soc Serv § 145-b</p>                                                                          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| Penal Law Article 155, Larceny.                 | <p><b>False statements; actions for treble damages</b></p> <p>1. (a) It shall be unlawful for any person, firm or corporation knowingly by means of a false statement or representation, or by deliberate concealment of any material fact, or other fraudulent scheme or device, on behalf of himself or others, to attempt to obtain or to obtain payment from public funds for services or supplies furnished or purportedly furnished pursuant to this chapter.</p> <p>(b) For purposes of this section, “statement or representation” includes, but is not limited to: a claim for payment made to the state, a political subdivision of the state, or an entity performing services under contract to the state or a political subdivision of the state; an acknowledgment, certification, claim, ratification or report of data which serves as the basis for a claim or a rate of payment, financial information whether in a cost report or otherwise, health care services available or rendered, and the qualifications of a person that is or has rendered health care services.</p> <p>(c) For purposes of this section, a person, firm or corporation has attempted to obtain or has obtained public funds when any portion of the funds from which payment was attempted or obtained are public funds, or any public funds are used to reimburse or make prospective payment to an entity from which payment was attempted or obtained.</p> <p>2. For any violation of subdivision one, the local social services district or the state shall have a right to recover civil damages equal to three times the amount by which any figure is falsely overstated or in the case of non-monetary false statements or representations, three times the amount of damages which the state, political subdivision of the state, or entity performing services under contract to the state or political subdivision of the state sustain as a result of the violation or five thousand dollars, whichever is greater. Notwithstanding part C of chapter fifty-eight of the laws of two thousand five: (a) For civil damages collected by a local social services district, relating to the medical assistance program, pursuant to a judgment under this subdivision, such amounts shall be apportioned between the local social services district and the state. If the violation occurred: (i) prior to January first, two thousand six, the amount apportioned to the local social services district shall be the local share percentage in effect immediately prior to such date as certified by the division of budget, or (ii) after January first, two thousand six, the amount apportioned to the local social services district shall be based on a reimbursement schedule, created by the office of Medicaid inspector general, in effect at the time the violation occurred; provided that, if there is no schedule in effect at the time the violation occurred, the schedule to be used shall be the first schedule adopted pursuant to this subdivision. Such schedule shall provide for reimbursement to a local social services district in an amount between ten and fifteen percent of the gross amount collected. Such schedule shall be set on a county by county basis and shall be periodically reviewed and updated as necessary; provided, however, that any such updated schedule shall not be less than ten percent nor greater than fifteen percent of the gross amount collected; and (b) For civil damages collected by the state relating to the medical assistance program pursuant to a judgment under this subdivision, the local social services district shall be entitled to compensation up to fifteen percent of the gross amount collected for such participation, including but not limited to identification, investigation or development of a case, commensurate with its level of effort or value added as determined by the Medicaid inspector general.</p> <p>3. If any provider or supplier of services in the program of medical assistance is required to refund or repay all or part of any payment received by said provider or supplier under the provisions of this chapter and title XIX of the federal social security act,<u>1</u> said refund or repayment shall bear interest from the date the payment was made to said provider or supplier to the date of said refund or repayment. Interest shall be at the maximum legal rate in effect on the date the payment was made to said provider or supplier.</p> <p>4. (a) The Medicaid inspector general, in consultation with the department of health, may require the payment of a monetary penalty as restitution to the medical assistance program by any person who fails to comply with the standards of the medical assistance program or standards of generally accepted medical practice in a substantial number of cases or grossly and flagrantly violated such standards and:</p> <p>(i) receives, or causes to be received by another person, payment from the medical assistance program when such person knew, or had reason to know, that:</p> <p>(A) the payment involved the providing or ordering of care, services or supplies that were medically improper, unnecessary or in excess of the documented medical needs of the person to whom they were furnished;</p> <p>(B) the care, services or supplies were not provided as claimed;</p> <p>(C) the person who ordered, prescribed, or furnished the care, services or supplies which were medically improper, unnecessary or in excess of the documented medical need of the person to whom they were furnished was suspended or excluded from the medical assistance program at the time the care, services or supplies were furnished; or</p> <p>(D) the services or supplies for which payment was received were not, in fact, provided; or</p> <p>(ii) such person fails to grant timely access to facilities and records, upon reasonable notice, to the Medicaid inspector general, the Medicaid fraud control unit of the attorney general's office, or the department of health for the purpose of audits, investigations, reviews, or other statutory functions. For purposes of this subparagraph, “reasonable notice” means a written request made by a properly identified agent of the Medicaid inspector general, the Medicaid fraud control unit of the attorney general's office, or the department of health either, during hours that the individual or entity is open for business, or mailed to the individual or entity to an address on file with the department of health or last known address. The request shall include a statement of the authority for the request, the definition of “reasonable notice”, and the penalties for failure to comply;</p> <p>(iii) such person knew or should have known that an overpayment has been identified and does not report, return and explain the overpayment in accordance with <u><a href="#">subdivision six of section three hundred sixty-three-d</a></u> of this article;</p> <p>(iv) such person arranges or contracts, by employment, agreement, or otherwise, with an individual or entity that the person knows or should know is suspended or excluded from the medical assistance program at the time such arrangement or contract regarding activities related to the medical assistance program is made;</p> <p>(v) such person had an obligation to identify, claim, and pay a bonus under <u><a href="#">subdivision three of section three hundred sixty-seven-w</a></u> of this article and such person failed to identify, claim and pay such bonus.</p> <p>(vi) For purposes of this paragraph, “person” as used in subparagraph (i) of this paragraph does not include recipients of the medical assistance program; and “person” as used in subparagraphs (ii), (iii) and (iv) of this paragraph, is as defined in <u><a href="#">paragraph (e) of subdivision six of section three hundred sixty-three-d</a></u> of this article; and “person” as used in subparagraph (v) of this paragraph includes employers as defined in <u><a href="#">section three hundred sixty-seven-w</a></u> of this article.</p> <p>(b) In determining the amount of any monetary penalty to be imposed, the Medicaid inspector general, in consultation with the department of health, shall take into consideration the following:</p> <p>(i) the number and total value of the claims for payment from the medical assistance program which were the underlying basis of the determination to impose a monetary penalty;</p> |
| Penal Law Article 175, False Written Statements |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      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| Penal Law Article 176, Insurance Fraud | <p>(ii) the effect, if any, on the quality of medical care provided to recipients of medical assistance as a result of the acts of the person;</p> <p>(iii) the degree of culpability of the person in committing the proscribed actions and any mitigating circumstances;</p> <p>(iv) any prior violations committed by the person relating to the medical assistance program, Medicare or other social services programs which resulted in either a criminal or administrative sanction, penalty, or recoupment; and</p> <p>(v) any other facts relating to the nature and seriousness of the violations including any exculpatory facts.</p> <p>(c)(i) For subparagraphs (i), (iii), and (iv) of paragraph (a) of this subdivision, in no event shall the monetary penalty imposed exceed ten thousand dollars for each item or service which was the subject of the determination herein, except that where a penalty under this section has been imposed on a person within the previous five years, such penalty shall not exceed thirty thousand dollars for each item or service which was the subject of the determination herein.</p> <p>(ii) For subparagraph (ii) of paragraph (a) of this subdivision, in no event shall the monetary penalty exceed fifteen thousand dollars for each day of the failure described in such subparagraph.</p> <p>(iii) For subparagraph (v) of paragraph (a) of this subdivision, a monetary penalty shall be imposed for conduct described in <a href="#">subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivision five of section three hundred sixty-seven-n</a> of this article and shall not exceed one thousand dollars per failure to identify, claim and pay a bonus for each employee.</p> <p>(d) Amounts collected pursuant to this subdivision shall be apportioned between the local social services district and the state in accordance with the regulations of the department of health.</p> <p>(e) For the purposes of this subdivision, “gross and flagrant violation” shall mean conduct which has an adverse effect on the fiscal integrity of the medical assistance program and:</p> <p>(i) which substantially impairs the delivery of high quality medical care, services, or supplies; or</p> <p>(ii) which substantially impairs the oversight and administration of the program.</p> <p>(f) A person against whom a monetary penalty is imposed pursuant to this subdivision shall be entitled to notice and an opportunity to be heard, including the right to request a hearing pursuant to <a href="#">section twenty-two</a> of this chapter.</p> <p>5. When in the course of conducting an investigation relating to the investigation relating to the medical assistance program, a local social services district deduces that a provider may have committed criminal fraud, it shall refer the case to the office of Medicaid inspector general along with appropriate supporting information. The office shall promptly review the case and, if deemed appropriate, refer the case pursuant to <a href="#">subdivision seven of section thirty-two of the public health law</a>. If the deputy attorney general for Medicaid fraud control accepts a referral from the office of Medicaid inspector general that was identified, investigated or developed by a local social services district, and the state collects damages, the participating local social services district shall be entitled to compensation up to fifteen percent of the gross amount collected for such participation commensurate with its level of effort or value added as determined by the deputy attorney general for Medicaid fraud control. If the office of Medicaid inspector general determines that it is not appropriate for referral in accordance with <a href="#">subdivision seven of section thirty-two of the public health law</a>, the office of Medicaid inspector general shall further investigate the case, with notice to the participating local social services district, or return the case to the participating social services district, which may resume its investigation of the provider.</p> <p><b>Credits</b></p> <p>(Added L.1975, c. 659, § 1. Amended <a href="#">L.1990, c. 190, § 377</a>; <a href="#">L.1992, c. 41, § 107</a>; <a href="#">L.1998, c. 2, § 34, eff. Nov. 1, 1998</a>; <a href="#">L.2006, c. 442, §§ 7, 8, eff. July 26, 2006</a>; <a href="#">L.2007, c. 58, pt. C, § 51, eff. April 9, 2007, deemed eff. April 1, 2007</a>; <a href="#">L.2007, c. 109, §§ 2, 3, eff. July 3, 2007</a>; <a href="#">L.2020, c. 56, pt. QQ, § 1, eff. April 3, 2020, deemed eff. April 1, 2020</a>; <a href="#">L.2022, c. 56, pt. ZZ, §§ 2, 3, eff. April 9, 2022</a>.)</p> <p>NY Soc Serv § 145-c</p> <p><b>Sanctions</b></p> <p>Any person who, individually or as a member of a family, applies for or receives public assistance and is found by a federal, state or local criminal, civil or other court or pursuant to an administrative hearing held in accordance with the regulations of the department, on the basis of a plea of guilty or nolo contendere or otherwise, intentionally to have (a) made a false or misleading statement or misrepresented, concealed, or withheld facts, or (b) committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity, for the purpose of establishing or maintaining the eligibility of the individual or of the individual’s family for aid or of increasing (or preventing a reduction in) the amount of such aid, then the needs of such individual shall not be taken into account in determining his or her need or that of his or her family pursuant to section one hundred thirty-one-a of this article (i) for a period of six months upon the first occasion of any such offense, (ii) for a period of twelve months upon the second occasion of any such offense or upon an offense which resulted in the wrongful receipt of benefits in an amount of between at least one thousand dollars and no more than three thousand nine hundred dollars, (iii) for a period of eighteen months upon the third occasion of any such offense or upon an offense which results in the wrongful receipt of benefits in an amount in excess of three thousand nine hundred dollars, and (iv) five years for any subsequent occasion of any such offense. Any period for which sanctions are imposed shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the sanctions were imposed is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which such sanctions are imposed be subject to review. The sanctions shall be in addition to, and not in substitution for, any other sanctions which may be provided for by law with respect to the offenses involved, except that the social services official or court official assessing penalties against a recipient for an act of fraud or misrepresentation described in this subdivision may consider whether to impose such penalties based upon the existence of the penalties described herein.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                 | <p>History - Add, <a href="#">L 1997, ch 436, § 41</a> (Part B), eff Aug 20, 1997 (see 1997 note below); amd, <a href="#">L 1998, ch 214, § 15</a>, eff July 7, 1998, deemed eff Aug 20, 1997.</p> <p>NY SOC SERV § 145</p> <p><b>Penalties</b></p> <p>1. Any person who by means of a false statement or representation, or by deliberate concealment of any material fact, or by impersonation or other fraudulent device, obtains or attempts to obtain, or aids or abets any person to obtain public assistance or care to which he is not entitled, or does any willful act designed to interfere with the proper administration of public assistance and care, shall be guilty of a misdemeanor, unless such act constitutes a violation of a provision of the penal law of the state of New York, in which case he shall be punished in accordance with the penalties fixed by such law. Failure on the part of a person receiving public assistance or care to notify the social services official granting such assistance or care of the receipt of money or property or income from employment or any other source whatsoever, shall, upon the cashing of a public assistance check by or on behalf of such person after the receipt of such money, or property, or income, constitute presumptive evidence of deliberate concealment of a material fact. Whenever a social services official has reason to believe that any person has violated any provision of this section, he shall promptly refer the facts and evidence available to him to the appropriate district attorney or other prosecuting official, who shall immediately evaluate the facts and evidence and take appropriate action. <b>Legislative History:</b> Sub 2, add, L 1971, ch 735, § 3, eff Sept 1, 1971.</p> <p>NY SOC SERV § 366-b</p> <p><b>Penalties for fraudulent practices</b></p> <p>1. Any person who knowingly makes a false statement or representation, or who by deliberate concealment of any material fact, or by impersonation or other fraudulent device, obtains or attempts to obtain or aids or abets any person to obtain medical assistance to which he is not entitled, shall be guilty of a class A misdemeanor, unless such act constitutes a violation of a provision of the penal law of the state of New York, in which case he shall be punished in accordance with the penalties fixed by such law.</p> <p>2. Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise under this title, shall be guilty of a class A misdemeanor, unless such act constitutes a violation of a provision of the penal law of the state of New York, in which case he shall be punished in accordance with the penalties fixed by such law.</p> <p><b>Legislative History:</b> Add, L 1970, ch 306, § 1, eff May</p> <p>NY Penal § 155 <i>et seq.</i></p> <p><b>§ 155.25. Petit larceny</b><br/>A person is guilty of petit larceny when he steals property. Petit larceny is a class A misdemeanor.</p> <p><b>§ 155.30. Grand larceny in the fourth degree</b></p> <p>A person is guilty of grand larceny in the fourth degree when he steals property and when:</p> <ol style="list-style-type: none"><li>1. The value of the property exceeds one thousand dollars; or</li><li>2. The property consists of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant; or</li><li>3. The property consists of secret scientific material; or</li><li>4. The property consists of a credit card or debit card; or</li><li>5. The property, regardless of its nature and value, is taken from the person of another; or</li></ol> |

| State /Citation                          | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| Penal Law Article 177, Health Care Fraud | <p>6. The property, regardless of its nature and value, is obtained by extortion; or</p> <p>7. The property consists of one or more firearms, rifles or shotguns, as such terms are defined in section 265.00 of this chapter; or</p> <p>8. The value of the property exceeds one hundred dollars and the property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, other than a motorcycle, as defined in section one hundred twenty-three of such law; or</p> <p>9. The property consists of a scroll, religious vestment, a vessel, an item comprising a display of religious symbols which forms a representative expression of faith, or other miscellaneous item of property [fig 1] which:</p> <p>    (a) has a value of at least one hundred dollars; and</p> <p>    (b) is kept for or used in connection with religious worship in any building [fig 1] , structure or upon the curtilage of such building or structure used as a place of religious worship by a religious corporation, as incorporated under the religious corporations law or the education law.</p> <p>10. The property consists of an access device which the person intends to use unlawfully to obtain telephone service.</p> <p>11. The property consists of anhydrous ammonia or liquified ammonia gas and the actor intends to use, or knows another person intends to use, such anhydrous ammonia or liquified ammonia gas to manufacture methamphetamine.</p> <p>Grand larceny in the fourth degree is a class E felony.</p> <p> <b>Legislative History:</b> Add, L 1965, ch 1030, § 1, with substance derived from §§ 850, 851, 852, 856, 1296, 1297; amd, L 1967, ch 791, § 21, eff Sept 1, 1967, L 1969, ch 115, § 3, L 1969, ch 352, § 1, L 1982, ch 234, § 1, eff June 15, 1982, L 1986, ch 515, § 1, eff Nov 1, 1986, L 1987, ch 556, § 8, eff Jan 1, 1988, <a href="#">L 1990, ch 450, § 1</a>, eff Nov 1, 1990, <a href="#">L 1992, ch 491, § 2</a>, eff Nov 1, 1992, <a href="#">L 2005, ch 394, § 1</a>, eff Oct 1, 2005, <a href="#">L 2010, ch 479, § 1</a>, eff Aug 30, 2010</p> <p><b>§ 155.35. Grand larceny in the third degree</b><br/>A person is guilty of grand larceny in the third degree when he or she steals property and:</p> <p>1. when the value of the property exceeds three thousand dollars, or</p> <p>2. the property is an automated teller machine or the contents of an automated teller machine.</p> <p>Grand larceny in the third degree is a class D felony.</p> <p> <b>Legislative History:</b> Add, L 1965, ch 1030, § 1, with substance derived from §§ 1294(3), 1295; amd, L 1986, ch 515, § 2, eff Nov 1, 1986, <a href="#">L 2010, ch 464, § 1</a>, eff Nov 1, 2010</p> <p><b>§ 155.40. Grand larceny in the second degree</b><br/>A person is guilty of grand larceny in the second degree when he steals property and when:</p> <p>1. The value of the property exceeds fifty thousand dollars; or</p> <p>2. The property, regardless of its nature and value, is obtained by extortion committed by instilling in the victim a fear that the actor or another person will (a) cause physical injury to some person in the future, or (b) cause damage to property, or (c) use or abuse his position as a public servant by engaging in conduct within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.</p> <p>Grand larceny in the second degree is a class C felony.</p> <p><b>Legislative History:</b> Add, L 1965, ch 1030, § 1, with substance derived from §§ 850, 851, 852, 856; amd, L 1986, ch 515, § 2, eff Nov 1, 1986.<br/>Section heading, amd, L 1986, ch 515, § 2, eff Nov 1, 1986</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p><b>§ 155.42. Grand larceny in the first degree</b><br/>A person is guilty of grand larceny in the first degree when he steals property and when the value of the property exceeds one million dollars. Grand larceny in the first degree is a class B felony.</p> <p><b>Legislative History:</b> Add, L 1986, ch 515, § 3, eff Nov 1, 1986.</p> <p><i>NY Penal § 175.00 et seq</i></p> <p><b>OFFENSES INVOLVING FALSE WRITTEN STATEMENTS</b></p> <p><i>NY Penal § 175.05</i></p> <p><b>Falsifying business records in the second degree</b><br/>A person is guilty of falsifying business records in the second degree when, with intent to defraud, he:</p> <ol style="list-style-type: none"><li>1. Makes or causes a false entry in the business records of an enterprise; or</li><li>2. Alters, erases, obliterates, deletes, removes or destroys a true entry in the business records of an enterprise; or</li><li>3. Omits to make a true entry in the business records of an enterprise in violation of a duty to do so which he knows to be imposed upon him by law or by the nature of his position; or</li><li>4. Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise.</li></ol> <p>Falsifying business records in the second degree is a class A misdemeanor.</p> <p><i>NY Penal § 175.10</i></p> <p><b>Falsifying business records in the first degree</b><br/>A person is guilty of falsifying business records in the first degree when he commits the crime of falsifying business records in the second degree, and when his intent to defraud includes an intent to commit another crime or to aid or conceal the commission thereof. Falsifying business records in the first degree is a class E felony.</p> <p><i>NY Penal § 175.15</i></p> <p><b>Falsifying business records; defense</b><br/>In any prosecution for falsifying business records, it is an affirmative defense that the defendant was a clerk, bookkeeper or other employee who, without personal benefit, merely executed the orders of his employer or of a superior officer or employee generally authorized to direct his activities.</p> <p><i>NY Penal § 175.30</i></p> <p><b>Offering a false instrument for filing in the second degree</b><br/>A person is guilty of offering a false instrument for filing in the second degree when, knowing that a written instrument contains a false statement or false information, he offers or presents it to a public office or public servant with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant.<br/>Offering a false instrument for filing in the second degree is a class A misdemeanor.</p> <p><i>NY Penal § 175.35</i></p> <p><b>Offering a false instrument for filing in the first degree</b><br/>A person is guilty of offering a false instrument for filing in the first degree when &lt;1&gt;:</p> <ol style="list-style-type: none"><li>1. knowing that a written instrument contains a false statement or false information, and with intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, he <i>or she</i> offers or presents it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation &lt;1&gt;; <i>or</i></li><li>2. (a) he or she commits the crime of offering a false instrument for filing in the second degree; and</li></ol> |



| State /Citation  | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   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| 18 NYCRR § 516.1 | <p>(b) such instrument is a financing statement the contents of which are prescribed by <a href="#">section 9--502 of the uniform commercial code</a>, the collateral asserted to be covered in such statement is the property of a person who is a state or local officer as defined by section two of the public officers law or who otherwise is a judge or justice of the unified court system, such financing statement does not relate to an actual transaction, and he or she filed such financing statement in retaliation for the performance of official duties by such person.</p> <p>Offering a false instrument for filing in the first degree is a class E felony.</p> <p>⬆️ <b>Legislative History:</b> History: Add, L 1965, ch 1030, § 1, with substance derived from §§ 460, 1872, 1872-a, 2051, 2321; amd, <a href="#">L 1998, ch 99, § 1</a>, eff Nov 1, 1998 (see 1998 note below); <a href="#">L 2013, ch 490, § 3</a>, eff Nov 1, 2014</p> <p><i>NY Penal § 175.45</i><br/><b>Issuing a false financial statement</b><br/>A person is guilty of issuing a false financial statement when, with intent to defraud:</p> <ol style="list-style-type: none"><li>1. He knowingly makes or utters a written instrument which purports to describe the financial condition or ability to pay of some person and which is inaccurate in some material respect; or</li><li>2. He represents in writing that a written instrument purporting to describe a person's financial condition or ability to pay as of a prior date is accurate with respect to such person's current financial condition or ability to pay, whereas he knows it is materially inaccurate in that respect.</li></ol> <p>Issuing a false financial statement is a class A misdemeanor.</p> <p><i>NY Penal § 176.05</i><br/><b>Insurance fraud; defined</b></p> <p>A fraudulent insurance act is committed by any person who, 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, or purported insurer, or purported self insurer, or any agent thereof [fig 1] :</p> <ol style="list-style-type: none"><li>1. any written statement as part of, or in support of, an application for the issuance of, or the rating of a commercial insurance policy, or certificate or evidence of self insurance for commercial insurance or commercial self insurance, or a claim for payment or other benefit pursuant to an insurance policy or self insurance program for commercial or personal insurance [fig 1] that he or she knows to:<ol style="list-style-type: none"><li>(a) contain materially false information concerning any fact material thereto; or</li><li>(b) conceal, for the purpose of misleading, information concerning any fact material thereto [fig 1] ; or</li></ol></li><li>2. [fig 1] any written statement or other physical evidence as part of, or in support of, an application for the issuance of a health insurance policy, or a policy or contract or other authorization that provides or allows coverage for, membership or enrollment in, or other services of a public or private health plan, or a claim for payment, services or other benefit pursuant to such policy, contract or plan [fig 2] that he or she knows to:<ol style="list-style-type: none"><li>(a) contain materially false information concerning any material fact thereto; or</li><li>(b) conceal, for the purpose of misleading, information concerning any fact material thereto.</li></ol></li></ol> <p>[As amended L 2011, chs 62 and 211] Such policy or contract or plan or authorization shall include, but not be limited to, those issued or operating pursuant to any public or governmentally-sponsored or supported plan for health care coverage or services or those otherwise issued or operated by entities authorized pursuant to the public health law. For purposes of this subdivision an "application for the issuance of a health insurance policy" shall not include [fig 1] (i) any application for a health insurance policy or contract approved by the [fig 2] superintendent of financial services pursuant to the provisions of sections three thousand two hundred sixteen, four thousand three hundred four, four thousand three hundred twenty-one or four thousand three hundred twenty-two of the insurance law or any other application for a health insurance policy or contract approved by the [fig 3] superintendent of financial services in the individual or direct payment market; [fig 4] or (ii) any application for a certificate evidencing coverage under a self-insured plan or under a group contract approved by the [fig 5] superintendent of financial services.</p> <p><b>HISTORY:</b> Add, L 1981, ch 720, § 3; amd, L 1996, ch 635, § 23, eff Sept 10, 1996 (see 1996 note below); amd, 1998, ch 2, § 42, eff Nov 1, 1998 (see 1998 note below), L 2011, ch 62, § 104 (Part A), eff Oct 3, 2011, L 2011, ch 211 § 2, eff July 20, 2011.</p> <p><i>NY Penal § 176.10</i><br/><b>Insurance fraud in the fifth degree</b><br/>A person is guilty of insurance fraud in the fifth degree when he commits a fraudulent insurance act. Insurance fraud in the fifth degree is a class A misdemeanor.</p> |

| State /Citation  | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| 18 NYCRR § 516.2 | <p><b>§ 176.15. Insurance fraud in the fourth degree</b><br/>A person is guilty of insurance fraud in the fourth degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of one thousand dollars. Insurance fraud in the fourth degree is a class E felony.</p> <p>NY Penal § 176.20<br/><b>Insurance fraud in the third degree</b><br/>A person is guilty of insurance fraud in the third degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of three thousand dollars. Insurance fraud in the third degree is a class D felony.</p> <p><b>§ 176.25. Insurance fraud in the second degree</b><br/>A person is guilty of insurance fraud in the second degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of fifty thousand dollars. Insurance fraud in the second degree is a class C felony.</p> <p>NY Penal § 176.30<br/><b>Insurance fraud in the first degree</b><br/>A person is guilty of insurance fraud in the first degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of one million dollars. Insurance fraud in the first degree is a class B felony.</p> <p>NY Penal § 176.35<br/><b>Aggravated insurance fraud</b><br/>A person is guilty of aggravated insurance fraud in the fourth degree when he commits a fraudulent insurance act, and has been previously convicted within the preceding five years of any offense, an essential element of which is the commission of a fraudulent insurance act. Aggravated insurance fraud in the fourth degree is a class D felony.</p> <p>NY Penal Article 177 et seq<br/><b>Health Care Fraud</b><br/>NY CLS Penal § 177.00<br/>Definitions</p> <p>The following definitions are applicable to this article:</p> <p>1. "Health plan" means any publicly or privately funded health insurance or managed care plan or contract, under which any health care item or service is provided, and through which payment may be made to the person who provided the health care item or service. The state's medical assistance program (Medicaid) shall be considered a single health plan. For purposes of this article, a payment made pursuant to the state's managed care program as defined in paragraph (c) of subdivision one of section three hundred sixty-four-j of the social services law shall be deemed a payment by the state's medical assistance program (Medicaid).</p> <p>2. "Person" means any individual or entity, other than a recipient of a health care item or service under a health plan unless such recipient acts as an accessory to such an individual or entity.</p> <p>NY Penal § 177.05<br/><b>Health care fraud in the fifth degree</b><br/>A person is guilty of health care fraud in the fifth degree when, with intent to defraud a health plan, he or she knowingly and willfully provides materially false information or omits material information for the purpose of requesting payment from a health plan for a health care item or service and, as a result of such information or omission, he or she or another person receives payment in an amount that he, she or such other person is not entitled to under the circumstances. Health care fraud in the fifth degree is a class A misdemeanor.</p> <p>NY Penal § 177.10<br/><b>Health care fraud in the fourth degree</b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>A person is guilty of health care fraud in the fourth degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds three thousand dollars in the aggregate. Health care fraud in the fourth degree is a class E felony.</p> <p><i>NY Penal § 177.15</i></p> <p><b>Health care fraud in the third degree</b></p> <p>A person is guilty of health care fraud in the third degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds ten thousand dollars in the aggregate. Health care fraud in the third degree is a class D felony.</p> <p><i>NY Penal § 177.20</i></p> <p><b>Health care fraud in the second degree</b></p> <p>A person is guilty of health care fraud in the second degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds fifty thousand dollars in the aggregate. Health care fraud in the second degree is a class C felony.</p> <p><i>NY Penal § 177.25</i></p> <p><b>Health care fraud in the first degree</b></p> <p>A person is guilty of health care fraud in the first degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds one million dollars in the aggregate. Health care fraud in the first degree is a class B felony</p> <p>18 NYCRR § 515.2<br/>18 NY ADC 515.2</p> <p><b>§ 515.2 Unacceptable practices under the medical assistance program</b></p> <p>(a) General. An unacceptable practice is conduct by a person which is contrary to:</p> <p>(1) the official rules and regulations of the department;</p> <p>(2) the published fees, rates, claiming instructions or procedures of the department;</p> <p>(3) the official rules and regulations of the Departments of Health, Education and Mental Hygiene, including the latter department's offices and divisions, relating to standards for medical care and services under the program; or</p> <p>(4) the regulations of the Federal Department of Health and Human Services promulgated under title XIX of the Federal Social Security Act.</p> <p>(b) Conduct included. An unacceptable practice is conduct which constitutes fraud or abuse and includes the practices specifically enumerated in this subdivision.</p> <p>(1) False claims. (i) Submitting, or causing to be submitted, a claim or claims for:</p> <p>(a) unfurnished medical care, services or supplies;</p> <p>(b) an amount in excess of established rates or fees;</p> <p>(c) medical care, services or supplies provided at a frequency or in an amount not medically necessary; or</p> <p>(d) amounts substantially in excess of the customary charges or costs to the general public.</p> |

| State /Citation         | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| New York Labor Law §740 | <p>(ii) Inducing, or seeking to induce, any person to submit a false claim under this subdivision.</p> <p>(2) False statements. (i) Making, or causing to be made any false, fictitious or fraudulent statement or misrepresentation of material fact in claiming a medical assistance payment, or for use in determining the right to payment.</p> <p>(ii) Inducing or seeking to induce the making of any false, fictitious or fraudulent statement or a misrepresentation of material fact.</p> <p>(3) Failure to disclose. Having knowledge of any event affecting the right to payment of any person and concealing or failing to disclose the event with the intention that a payment be made when not authorized or in a greater amount than due.</p> <p>(4) Conversion. Converting a medical assistance payment, or any part of such payment, to a use or benefit other than for the use and benefit intended by the medical assistance program.</p> <p>(5) Bribes and kickbacks. Unless the discount or reduction in price is disclosed to the client and the department and reflected in a claim, or a payment is made pursuant to a valid employer-employee relationship, the following activities are unacceptable practices:</p> <p>(i) soliciting or receiving either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for referring a client to a person for any medical care, services or supplies for which payment is claimed under the program;</p> <p>(ii) soliciting or receiving either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for purchasing, leasing, ordering or recommending any medical care, services or supplies for which payment is claimed under the program;</p> <p>(iii) offering or paying either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for referring a client to a person for any medical care, services or supplies for which payment is claimed under the program; or</p> <p>(iv) offering or paying either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for purchasing, leasing, ordering or recommending any medical care, services or supplies for which payment is claimed under the program.</p> <p>(6) Unacceptable recordkeeping. Failing to maintain or to make available for purposes of audit or investigation records necessary to fully disclose the medical necessity for and the nature and extent of the medical care, services or supplies furnished, or to comply with other requirements of this Title.</p> <p>(7) Employment of sanctioned persons. Submitting claims or accepting payment for medical care, services or supplies furnished by a person suspended, disqualified or otherwise terminated from participation in the program or furnished in violation of any condition of participation in the program.</p> <p>(8) Receiving additional payments. Seeking or accepting any gift, money, donation or other consideration in addition to the amount paid or payable under the program for any medical care, services or supplies for which a claim is made.</p> <p>(9) Client deception. Deceiving, misleading or threatening a client, or charging or agreeing to charge or collect any fee in excess of the maximum fee, rate or schedule amount from a client.</p> <p>(10) Conspiracy. Making any agreement, combination or conspiracy to defraud the program by obtaining, or aiding anyone to obtain, payment of any false, fictitious or fraudulent claim.</p> <p>(11) Excessive services. Furnishing or ordering medical care, services or supplies that are substantially in excess of the client's needs.</p> <p>(12) Failure to meet recognized standards. Furnishing medical care, services or supplies that fail to meet professionally recognized standards for health care or which are beyond the scope of the person's professional qualifications or licensure.</p> |

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|                 | <p>(13) Unlawful discrimination. Illegally discriminating in the furnishing of medical care, services or supplies based upon the client's race, color, national origin, religion, sex, age or handicapping condition.</p> <p>(14) Factoring. Assigning payments under the program to a factor, either directly or by power of attorney; or receiving payment through any person whose compensation is not related to the cost of processing the claim, is related to the amount collected or is dependent upon collection of the payment.</p> <p>(15) Solicitation of clients. Offering or providing any premium or inducement to a client in return for the client's patronage of the provider or other person to receive care, services or supplies under the program.</p> <p>(16) Verification of MA eligibility:</p> <p>(i) failing to use the Medicaid Eligibility Terminal (MET) verification procedure, as required by Part 514 of this Title, in a significant number of cases and such failure is unjustified;</p> <p>(ii) failing to use the card swipe capability of the MET, as required by Part 514 of this Title, in a significant number of cases and such failure is unjustified;</p> <p>(iii) failing to post orders for medical care, services or supplies in the electronic Medicaid eligibility verification system (EMEVS), as required by part 514 of this Title, in a significant number of cases and such failure is unjustified; or</p> <p>(iv) failing to clear prescription or fiscal orders which are required to be posted to EMEVS, as required by Part 514 of this Title, in a significant number of cases and such failure is unjustified.</p> <p>(17) Denial of services. Denying services to a recipient based in whole or in part upon the recipient's inability to pay a co-payment for medical care, services or supplies.</p> <p>(18) Other prohibited acts. With respect to any person not a provider, committing any act which would result in the termination of a provider's enrollment in the program pursuant to section 504.7 of this Title.<br/>Statutory authority: <a href="#">Social Services Law, §§ 20(3)(d), 34(3)(f), 363-a(2)</a>.<br/>Repealed and added 515.2 on 6/06/88; amended 515.2 (b)(6) on 10/14/92; renumbered 515.2 (b)(17) to be (b)(18) on 10/14/92; added 515.2 (b)(17) on 10/14/92.</p> <p><b>18 NYCRR § 516.1 - Policy, scope and definitions</b></p> <p>(a) Scope. Social Services Law authorizes the imposition of monetary penalties for certain violations of the Medical Assistance (MA) program. This Part shall apply to monetary penalties imposed by the Office of the Medicaid Inspector General (OMIG) pursuant to <a href="#">sections 145-b(4), 363-d</a>, and <a href="#">364-j(38) of the Social Services Law</a>. Nothing in this Part shall preclude or limit the Department of Health's ability to impose or levy fines or penalties or take any administrative actions under other provisions of this Title.</p> <p>(b) Definitions. For purposes of <a href="#">sections 145-b(4), 363-d</a>, and <a href="#">364-j(38) of the Social Services Law</a>, and this Part, the terms defined in Parts 504, 515 and 521 of this Title, except as may be provided for herein, and the following terms apply:</p> <p>(1) “<i>Encounter</i>” means all encounter records, or adjustments to previously submitted records, which the managed care provider or managed long term care plan (MLTCP) has received and processed from provider encounter or claim records of all contracted services rendered to an enrollee of the managed care provider or MLTCP in the current or any preceding month.</p> <p>(2) “<i>Failure to grant timely access to records and facilities</i>” means the failure to produce or make available for review, copying, and inspection requested material, or to provide access to facilities upon reasonable notice by the deadline specified in the written request made by OMIG, the department, or the deputy attorney general for Medicaid Fraud Control.</p> <p>(3) “<i>Item or service</i>” means all medical care, services or supplies claimed to have been provided or furnished to a recipient of the MA program and which is listed in an itemized claim for payment or encounter.</p> <p>(4) “<i>Office of the Medicaid Inspector General</i>” or “OMIG” means the independent office within the department established pursuant to Title 3 of Article 1 of the New York State Public Health Law.</p> <p>(5) “<i>Person</i>” is as defined in Part 504 of this Title, except for monetary penalties imposed pursuant to <a href="#">section 145-b(4) of the Social Services Law</a>. For purposes of <a href="#">section 145-b(4) of the Social Services Law</a> “person” is as defined in that section.</p> <p>(6) “<i>Standards of generally accepted practice</i>” means the degree of knowledge, skill and diligence possessed by, or required of, the average member of the profession or specialty which is practiced. Standards of generally accepted practice also include those practices which are accepted as effective and appropriate by the medical and scientific community of this State.</p> <p>(7) “<i>Standards of the MA program</i>” include but are not limited to the standards set forth in the rules, regulations, and official directives of the department.</p> <p>(8) “<i>Substantial number of cases</i>” means five percent or more of those claims, encounters, or cases identified in any audit, investigation or review, or any sample of cases which were the subject of an audit or otherwise reviewed by the department and for which claims were submitted by a person for payment under the MA program.</p> |

| State /Citation         | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                         | <p><b>Credits</b><br/>Sec. filed Aug. 27, 1979; repealed, filed May 16, 1988; new filed April 23, 1991 eff. May 8, 1991; amd. filed Feb. 10, 2009 eff. Feb. 25, 2009; rep. and new added filed Oct. 6, 2020 eff. Oct. 21, 2020.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                         | <p><b>18 NYCRR § 516.2 - Notice</b></p> <p>(a) Notice of proposed agency action.</p> <p>(1) When OMIG proposes to impose a monetary penalty under this Part, OMIG must first send the person a written notice of proposed agency action. Such notice must be mailed to the person's designated payment address, designated correspondence address, or last known address.</p> <p>(2) The notice of proposed agency action must contain:</p> <p>(i) the alleged violation(s);</p> <p>(ii) facts which support the conclusion that a violation has occurred;</p> <p>(iii) the amount of the proposed monetary penalty;</p> <p>(iv) the legal authority for the penalty;</p> <p>(v) the opportunity for the person to submit documentation or written arguments objecting to the proposed action within 30 calendar days of receipt of the notice of proposed agency action. The objections must be in writing and include a written statement detailing the specific items in the notice of proposed agency action to which the person objects; and</p> <p>(vi) a statement that the failure to object within the time provided may result in the adoption of the proposed penalties as the final penalties and that, pursuant to section 519.18 of this Title, the issues to be addressed at an administrative hearing will be limited to those matters contained in any objection to the proposed action.</p> <p>(3) Any documentation or written arguments submitted by the person objecting to the notice of proposed agency action must be mailed to OMIG, at the address specified in the notice of proposed agency action, within 30 calendar days of receipt of the notice of proposed agency action which will be presumed, in the absence of evidence to the contrary, to be five calendar days after the date on the notice of proposed agency action.</p> <p>(4) For good cause shown, OMIG may, in its discretion, extend the 30-calendar day period to respond to the notice of proposed agency action.</p> <p>(b) Notice of agency action.</p> <p>(1) If, after its review, OMIG determines to impose a monetary penalty, it must send a written notice of agency action advising the person of the final determination at least 20 days before the action becomes effective. In preparing the notice of agency action, OMIG must consider the person's objections, any supporting documents and materials, if any, submitted in response to the notice of proposed agency action. Such notice must be either mailed to the person's designated payment address, designated correspondence address, or last known address.</p> <p>(2) The notice of agency action must contain:</p> <p>(i) the alleged violation(s);</p> <p>(ii) facts which support the conclusion that a violation has occurred;</p> <p>(iii) the amount of the monetary penalty;</p> <p>(iv) the legal authority for the penalty;</p> <p>(v) the effective date of the penalty; and</p> <p>(vi) the right of the person to appeal the determination and of the requirements and procedures for requesting an administrative hearing.</p> <p>(3) Where a person timely requests a hearing to review the imposition of a penalty, such hearing must be conducted pursuant to the provisions of Part 519 of this Title.</p> |
| New York Labor Law §741 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| New York Labor Law §741 | <p><b>Credits</b><br/>Sec. filed Oct. 13, 1983; repealed, filed May 16, 1988; new filed April 23, 1991 eff. May 8, 1991; amd. filed Feb. 10, 2009 eff. Feb. 25, 2009; rep. and new added filed Oct. 6, 2020 eff. Oct. 21, 2020.</p> <p><b>18 NYCRR § 516.3 - Effect and enforcement of the penalty</b></p> <p><u><a href="#">Currentness</a></u></p> <p>(a) General.</p> <p>(1) The imposition of a penalty under this Part does not preclude the recovery of an overpayment or the imposition of any other penalty authorized by Federal or State law or regulation.</p> <p>(2) Notwithstanding the imposition of any penalty under this Part, the department may also sanction a person pursuant to Part 515 of this Title.</p> <p>(b) Collection of penalties.</p> <p>(1) When the person against whom a penalty was imposed does not pay the penalty, the department may recover the amount of the penalty in the same manner as the recovery of an overpayment as set forth in Part 518 of this Title or by any other means authorized by statute, or the rules and regulations of the department.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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|                 | <p>(2) Interest will accrue on the amount of the penalty commencing on the 90th day after the date of OMIG's notice of agency action. Interest will accrue at the rate set forth in section 518.4(c) of this Title. Interest may be waived in whole or in part when OMIG determines the imposition of interest would effect an unjust result, would unduly burden the provider or would substantially delay the prompt and efficient resolution of an outstanding audit or investigation.</p> <p><b>Credits</b><br/>Sec. filed April 23, 1991 eff. May 8, 1991; rep. and new added filed Oct. 6, 2020 eff. Oct. 21, 2020.</p> <p>18 NYCRR 518.3<br/><b>Section 518.3. Liability for overpayments</b><br/><a href="#">Currentness</a><br/>(a) The department may require repayment from the person submitting an incorrect or improper claim, or the person causing such claim to be submitted, or the person receiving payment for the claim.<br/>(b) The department may require repayment for inappropriate, improper, unnecessary or excessive care, services or supplies from the person furnishing them, or the person under whose supervision they were furnished, or the person causing them to be furnished. In this respect, the department may recover the amount paid for such care, services or supplies from the person ordering or prescribing them even though payment was made to another person. Medical care, services or supplies ordered or prescribed will be considered excessive or not medically necessary unless the medical basis and specific need for them are fully and properly documented in the client's medical record.<br/>(c) Persons furnishing, or supervising the furnishing of, medical care, services or supplies are jointly and severly liable for any overpayments resulting from the furnishing of the care, services or supplies. The amount of repayment which may be recovered from any person is the amount paid for furnishing the medical care, services or supplies, plus the amount paid to any other person as a result of his/her ordering or prescribing medical care, services or supplies, less any amount actually recovered from any other person which relates to the care, services or supplies for which repayment is sought.</p> <p><b>Credits</b><br/>Sec. filed May 16, 1988 eff. June 6, 1988.</p> <hr/> <p>18 NYCRR 518.4<br/><b>Section 518.4. Interest</b><br/><a href="#">Currentness</a><br/>(a) Interest may be collected upon any overpayments determined to have been made and will accrue at the rate and in the manner set forth in this section.<br/>(b) Prior to the issuance of a notice of determination, interest will accrue at the current rate from the date of the overpayment.<br/>(c) After the issuance of a notice of determination, interest will accrue at the current rate, plus two percentage points, or the maximum legal rate, whichever is lower.<br/>(d) The current rate for purposes of this section is the annual rate of interest as fixed by the department, in consultation with the State Comptroller or superintendent of the Banking Department, after taking into consideration private consumer rates of interest prevailing on the date that the department became entitled to recovery of the overpayment. The rate may be revised quarterly by the department.<br/>(e) Interest may be waived in whole or in part when the department determines the imposition of interest would effect an unjust result, would unduly burden the provider or would substantially delay the prompt and efficient resolution of an outstanding audit or investigation. No interest will be imposed upon any inpatient facility established under article 28 of the Public Health Law as a result of an audit of its costs for any period prior to the issuance of a notice of determination, nor for a period of at least 90 days after issuance of such notice.</p> <p><b>Credits</b><br/>Sec. filed May 16, 1988 eff. June 6, 1988.</p> <p><a href="#">Compilation of Codes, Rules and Regulations of the State of New York</a><br/><a href="#">Title 18. Department of Social Services</a><br/><a href="#">Chapter II. Regulations of the Department of Social Services</a><br/><a href="#">Subchapter E. Medical Care</a><br/><a href="#">SuperBrowse Article 3. Policies and Standards Governing Provision of Medical and Dental Care</a><br/><a href="#">SuperBrowse Part 518. Recovery and Withholding of Payments or Overpayments (Refs &amp; Annots)</a></p> <p>18 NYCRR 518.6<br/><b>Section 518.6. Recoupment of overpayments</b><br/><a href="#">Currentness</a><br/>(a) Overpayments may be recovered by withholding all or part of a provider's and an affiliate's payments otherwise payable, at the option of the department.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(b) Any money due to the provider from the department may be used as an offset against any overpayments.</p> <p><b>Credits</b><br/>Sec. filed May 16, 1988 eff. June 6, 1988.</p> <p>18 NYCRR 518.7<br/><b>Section 518.7. Withholding of payments</b><br/><u><a href="#">Currentness</a></u></p> <p>(a) Basis for withholding.</p> <p>(1) The department may withhold payments under the program, in whole or in part, when it has determined that a provider has abused the program or has committed an unacceptable practice. The department's determination that a provider has abused the program, or has committed an unacceptable practice may consist of preliminary findings by the department's audit or utilization review staff of unacceptable practices or significant overpayments, information from a State professional licensing or certifying agency of an ongoing investigation of a provider involving fraud, abuse, professional misconduct or unprofessional conduct, or information from a State investigating or prosecutorial agency or other law enforcement organization of an ongoing investigation of a provider for fraud or criminal conduct involving the program. The department may withhold payment of current and future claims to the provider and any affiliate.</p> <p>(2) The department must withhold payments under the program, in whole or in part, when it has determined or has been notified that a provider is the subject of a pending investigation of a credible allegation of fraud unless the department finds good cause not to withhold payments in accordance with <u><a href="#">42 C.F.R. 455.23</a></u>. A credible allegation of fraud is an allegation that has indicia of reliability and has been verified by the department, or the Medicaid fraud control unit, or another State agency, or law enforcement organization.</p> <p>(i) Whenever the department initiates a withholding, in whole or in part, in relation to a pending investigation of a credible allegation of fraud, the department must make a fraud referral to the Medicaid fraud control unit. If the Medicaid fraud control unit does not accept the referral, then the department may refer the matter to another law enforcement organization.</p> <p>(ii) The fraud referral made under this paragraph must be in writing and provided to the Medicaid fraud control unit or other law enforcement organization not later than the next business day after the withhold is enacted.</p> <p>(b) Notice of the withholding will be given within five days of taking such action unless requested in writing by a law enforcement organization to delay such notice. The notice will describe the reasons for the action, but need not include specific information concerning an ongoing investigation.</p> <p>(c) The notice of withholding must:</p> <p>(1)</p> <p>(i) state that the payments are being withheld in accordance with this section; and</p> <p>(ii) in cases where there is a pending investigation of a credible allegation of fraud state that the payments are being withheld in accordance with <u><a href="#">42 CFR 455.23</a></u>;</p> <p>(2) state that the withholding is for a temporary period only and recite the circumstances under which the withhold will be terminated;</p> <p>(3) specify whether the withholding applies to all or only some claims and identify which claims if not all claims are involved; and</p> <p>(4) advise of the right to submit written arguments and documentation in opposition to the withholding and how to submit them in accordance with subdivision (e) of this section.</p> <p>(d) The withholding may continue only temporarily.</p> <p>(1) When initiated by the department prior to issuance of a draft audit report or notice of proposed agency action, the withholding will not continue for more than 90 days unless a written draft audit report or notice of proposed agency action is sent to the provider. Issuance of the draft report or notice of proposed action may extend the withholding until an amount reasonably calculated to satisfy the overpayment is withheld, pending a final determination on the matter.</p> <p>(2) When initiated by the department after issuance of a draft audit report or notice of proposed agency action, the withholding will not continue for more than 90 days unless a written final audit report or notice of agency action is sent to the provider. Issuance of the report or notice of action may extend the withholding until an amount reasonably calculated to satisfy the overpayment is withheld, pending a final determination on the matter.</p> <p>(3) When initiated by another State agency or law enforcement organization, the withholding may continue until the agency or prosecuting authority determines that there is insufficient evidence to support an action against the provider or its affiliate, or until the agency or criminal proceedings are completed.</p> <p>(4) When initiated by the department when it has determined or has been notified that a provider is the subject of a pending investigation of a credible allegation of fraud all withholding actions will be temporary and will not continue after either of the following:</p> <p>(i) The department, or the Medicaid fraud control unit, or other law enforcement organization determines that there is insufficient evidence of fraud by the provider.</p> <p>(ii) Legal proceedings related to the provider's alleged fraud are completed.</p> <p>(e) Appeals.</p> <p>(1) A provider or its affiliate that is the subject of the withholding is not entitled to an administrative hearing, but may, within 30 days of the date of the notice, submit written arguments and documentation that the withhold should be removed.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(2) Within 60 days of receiving written arguments or documentation in response to a withhold, the department will review the determination and notify the provider or its affiliate of the results of that review. After the review, the determination to impose a withhold may be affirmed, reversed or modified, in whole or in part.</p> <p>(3) A decision by the department to affirm, reverse or modify a withhold on appeal shall not be a determination of the merits of any investigation initiated by another State agency, the Medicaid fraud control unit, or other law enforcement organization.</p> <p><b>Credits</b><br/>Sec. filed May 16, 1988 eff. June 6, 1988; amds. filed April 22, 2010 eff. May 12, 2010; amd. filed Aug. 6, 2012 eff. Aug. 22, 2012.</p> <p>18 NYCRR 521-1.1<br/>Formerly cited as 18 NY ADC 521.1</p> <p><b>Section 521-1.1. Scope and applicability</b></p> <p><u><a href="#">Currentness</a></u></p> <p>(a) Scope. Social Services Law requires certain persons participating in the Medical Assistance (MA) program to adopt and implement programs designed to detect and prevent fraud, waste and abuse in the MA program. Required providers may be able to detect and correct payment and billing mistakes and fraud if required to develop and implement a compliance program. This SubPart sets forth the requirements for establishing and operating effective compliance programs pursuant to <u><a href="#">section 363-d of the Social Services Law</a></u>, the obligation to self-disclose overpayments, and the procedures for reviewing compliance programs.</p> <p>(b) Applicability. The following persons shall be subject to the provisions of this SubPart, and shall hereinafter be referred to as “required providers”:</p> <p>(1) any person subject to the provisions of articles 28 or <u><a href="#">36 of the Public Health Law</a></u>;</p> <p>(2) any person subject to the provisions of articles 16 and 31 of the Mental Hygiene Law;</p> <p>(3) any managed care provider or managed long term care plan, which shall hereinafter be collectively, unless otherwise noted, referred to as “Medicaid managed care organization” or “MMCO;” and</p> <p>(4) any other person for whom the MA program is, or is reasonably expected by the person to be, a substantial portion of their business operations.</p> <p><b>Credits</b><br/>Renumbered from § 521.1 amd. filed Dec. 7, 2022 eff. Dec. 28, 2022 (Register dated Dec. 28, 2022).</p> <p>18 NYCRR 521-1.2<br/>Formerly cited as 18 NY ADC 521.2</p> <p><b>Section 521-1.2. Definitions</b></p> <p><u><a href="#">Currentness</a></u></p> <p>(a) For purposes of this SubPart, the terms defined in Parts 504 and 515 of this Title, except as otherwise noted, shall apply.</p> <p>(b) In addition, for the purposes of this SubPart, the following terms have the following meanings:</p> <p>(1) “<i>Affected individuals</i>” means all persons who are affected by the required provider's risk areas including the required provider's employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers.</p> <p>(2) “<i>Days</i>” means, unless otherwise noted, calendar days.</p> <p>(3) “<i>Effective compliance program</i>” means a compliance program adopted and implemented by the required provider that, at a minimum, satisfies the requirements of this SubPart and that is designed to be compatible with the provider's characteristics (i.e., size, complexity, resources, and culture), which shall mean that it:</p> <p>(i) is well-integrated into the company's operations and supported by the highest levels of the organization, including the chief executive, senior management, and the governing body;</p> <p>(ii) promotes adherence to the required provider's legal and ethical obligations; and</p> <p>(iii) is reasonably designed and implemented to prevent, detect, and correct non-compliance with MA program requirements, including fraud, waste, and abuse most likely to occur for the required provider's risk areas and organizational experience.</p> <p>(4) “<i>MA</i>” means medical assistance for needy persons provided under Title 11 of Article 5 of the Social Services Law.</p> <p>(5) “<i>Managed care provider</i>” is as defined in <u><a href="#">subdivision 1 of section 364-j of the Social Services Law</a></u>.</p> <p>(6) “<i>Managed long term care plan</i>” or “<i>MLTCP</i>” means an entity that has received a certificate of authority pursuant to <u><a href="#">section 4403-f of the Public Health Law</a></u> to provide or arrange for health and long term care services on a capitated basis for a population which the plan is authorized to enroll.</p> <p>(7) “<i>Medicaid Fraud Control Unit</i>” or “<i>MFCU</i>” means the Attorney General of the State of New York operating the program required by 42 C.F.R. Part 1007 and the Social Security Act.</p> <p>(8) “<i>Office of the Medicaid Inspector General</i>” or “<i>OMIG</i>” means the independent office within the department established pursuant to Title 3 of Article 1 of the New York State Public Health Law.</p> <p>(9) “<i>Organizational experience</i>” means the required provider's:</p> |

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|                 | <p>(i) knowledge, skill, practice and understanding in operating its compliance program;</p> <p>(ii) identification of any issues or risk areas in the course of its internal monitoring and auditing activities;</p> <p>(iii) experience, knowledge, skill, practice and understanding of its participation in the MA program and the results of any audits, investigations, or reviews it has been the subject of; or</p> <p>(iv) awareness of any issues it should have reasonably become aware of for its category or categories of service.</p> <p>(10) “<i>Participating provider</i>” means a provider of medical care and/or services that has a provider agreement with an MMCO.</p> <p>(11) “<i>Substantial portion of business operations</i>” means:</p> <p>(i) when a person claims or has claimed, or should be reasonably expected to claim, at least one million dollars (\$1,000,000), in the aggregate, in any consecutive twelve-month period, directly or indirectly, from the MA program; or</p> <p>(ii) when a person receives or has received, or should be reasonably expected to receive, at least one million dollars (\$1,000,000), in the aggregate, in any consecutive twelve-month period, directly or indirectly, from the MA program.</p> <p><b>Credits</b></p> <p>Renumbered from § 521.2 amd. filed Dec. 7, 2022 eff. Dec. 28, 2022 (Register dated Dec. 28, 2022).</p> <p>18 NYCRR 521-1.3</p> <p>Formerly cited as 18 NY ADC 521.3</p> <p><b>Section 521-1.3. Required provider duties</b></p> <p><u><a href="#">Currentness</a></u></p> <p>(a) General. Required providers shall, as a condition of receiving payment under the MA program, adopt, implement, and maintain an effective compliance program which satisfies the requirements of this SubPart. The required provider's compliance program may be a component of more comprehensive compliance activities by the required provider so long as the requirements of this SubPart are met. Required providers must implement and maintain a compliance program, adopted pursuant to this SubPart, for the entire period that the person meets the definition of being a required provider.</p> <p>(b) Record retention. A required provider shall retain all records demonstrating that it has adopted, implemented and operated an effective compliance program and has satisfied the requirements of this SubPart. The required provider shall make available to the department, OMIG, or MFCU upon request, copies of such records. Records shall be retained:</p> <p>(1) by required providers for a period not less than six (6) years from the date such program was implemented, or any amendments thereto, were made; or</p> <p>(2) by MMCOs in accordance with the retention periods specified in their contract with the department to participate as MMCOs.</p> <p>(c) Contractors, agents, subcontractors, and independent contractors.</p> <p>(1) Contractors, agents, subcontractors, and independent contractors are hereinafter referred to collectively, unless otherwise noted, as “contractor” or “contractors”.</p> <p>(2) The required provider shall ensure that contracts with contractors specify that the contractors are subject to the required provider's compliance program, to the extent that such contractors are affected by the required provider's risk areas and only within the scope of the contracted authority and affected risk areas.</p> <p>(3) The required provider shall ensure that such contracts include termination provisions for failure to adhere to the required provider's compliance program requirements.</p> <p>(4) The required provider is ultimately responsible for the adoption, implementation, maintenance, enforcement, and effectiveness of its compliance program.</p> <p>(d) Risk areas. The compliance program shall apply to the required provider's risk areas, which are those areas of operation affected by the compliance program and shall apply to:</p> <p>(1) billings;</p> <p>(2) payments;</p> <p>(3) ordered services;</p> <p>(4) medical necessity;</p> <p>(5) quality of care;</p> <p>(6) governance;</p> <p>(7) mandatory reporting;</p> <p>(8) credentialing;</p> <p>(9) contractor, subcontractor, agent or independent contract oversight;</p> <p>(10) other risk areas that are or should reasonably be identified by the provider through its organizational experience; and</p> <p>(11) for MMCOs, in addition to paragraphs (1) - (10) of this subdivision, the following risk areas:</p> <p>(i) compliance with terms of the MMCO's contract with the department to participate as an MMCO;</p> <p>(ii) cost reporting;</p> <p>(iii) submission of encounter data to the department;</p> |

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|                 | <p>(iv) network adequacy and contracting;</p> <p>(v) provider and subcontractor oversight;</p> <p>(vi) underutilization;</p> <p>(vii) marketing;</p> <p>(viii) provision of medically necessary services;</p> <p>(ix) payments and claims processing; and</p> <p>(x) statistically valid service verification.</p> <p>(e) The required provider shall comply with all directives of the department or OMIG with respect to the adoption, implementation and maintenance of compliance programs required by this SubPart.</p> <p>(f) Certification.</p> <p>(1) Required providers shall certify to the department upon enrollment and annually thereafter, using a form and manner required by OMIG and the department, that the required provider has met the requirements of <a href="#">section 363-d of the Social Services Law</a> and this SubPart.</p> <p>(2) Participating providers that are also required providers pursuant to this SubPart shall provide a copy of the certification, required under the preceding paragraph, to each MMCO for which they are a participating provider upon signing the provider agreement with the MMCO, and annually thereafter. MMCOs shall maintain a method for submitting such certification on the MMCO's website, which may include a dedicated email address, and shall retain such certification in accordance with the requirements of subdivision (b) of this section.</p> <p>(g) Report, return and explain. Required providers shall comply with the requirements of SubPart 521-3 of this Part to report, return and explain overpayments.</p> <p><b>Credits</b></p> <p>Renumbered from § 521.3 amd. filed Dec. 7, 2022 eff. Dec. 28, 2022 (Register dated Dec. 28, 2022).</p> <p>18 NYCRR 521-1.4</p> <p><b>Section 521-1.4. Compliance program requirements</b></p> <p><a href="#">Currentness</a></p> <p>(a) Written policies and procedures.</p> <p>(1) General. Required providers shall have written policies, procedures, and standards of conduct. The required provider shall establish a process for drafting, revising, and approving the written policies and procedures required by this subdivision. The written policies and procedures described in this subdivision must be available, accessible, and applicable to all affected individuals.</p> <p>(2) The written policies and procedures shall:</p> <p>(i) articulate the required provider's commitment and obligation to comply with all applicable federal and state standards. The required provider shall identify governing laws, and regulations that are applicable to the provider's risk areas, including any MA program policies and procedures, as specified in subdivision (d) of section 521-1.3 of this SubPart or category of service.</p> <p>(ii) describe compliance expectations as embodied in standards of conduct. The standards of conduct shall serve as a foundational document which describes the required provider's fundamental principles and values, and commitment to conduct its business in an ethical manner.</p> <p>(iii) document the implementation of each of the subdivisions under this section and outline the ongoing operation of the compliance program. Policies and procedures shall describe, at a minimum, the structure of the compliance program, including the responsibilities of all affected individuals in carrying out the functions of the compliance program.</p> <p>(iv) provide guidance to affected individuals on dealing with potential compliance issues. Such guidance shall, at a minimum:</p> <p>(a) assist affected individuals in identifying potential compliance issues, questions and concerns, set forth expectations for reporting compliance issues, and explain how to report such issues, questions, and concerns to the compliance officer; and</p> <p>(b) establish the expectation that all affected individuals will act in accordance with the standards of conduct, that they must refuse to participate in unethical or illegal conduct, and that they must report any unethical or illegal conduct to the compliance officer.</p> <p>(v) identify the methods and procedures for communicating compliance issues to the appropriate compliance personnel.</p> <p>(vi) describe how potential compliance issues are investigated and resolved by the required provider and the procedures for documenting the investigation and the resolution or outcome.</p> <p>(vii) include a policy of non-intimidation and non-retaliation for good faith participation in the compliance program, including, but not limited to:</p> <p>(a) reporting potential compliance issues to appropriate personnel;</p> <p>(b) participating in investigation of potential compliance issues;</p> <p>(c) self-evaluations;</p> <p>(d) audits</p> <p>(e) remedial actions</p> <p>(f) reporting instances of intimidation or retaliation; and</p> |

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|                 | <p>(g) reporting potential fraud, waste or abuse to the appropriate State or Federal entities.</p> <p>(viii) Disciplinary standards. Include a written statement setting forth the required provider's policy regarding affected individuals who fail to comply with the written policies and procedures, standards of conduct, or State and Federal laws, rules and regulations.</p> <p>(a) Such statement shall establish standards for escalating disciplinary actions that must be taken in response to non-compliance, with intentional or reckless behavior being subject to more significant sanctions. Sanctions may include oral or written warnings, suspension, and/or termination.</p> <p>(b) The written policies and procedures shall also outline the procedures for taking disciplinary action and sanctioning individuals. Disciplinary procedures shall conform with collective bargaining agreements when applicable.</p> <p>(ix) Additionally, notwithstanding the requirement under <a href="#">42 U.S.C. 1396a(a)(68)</a>, which applies to entities that receive or make annual payments of at least \$5,000,000 annually, all required providers shall comply with the provisions of <a href="#">42 U.S.C. 1396a(a)(68)</a> (United States Code, 2006 edition, Title 42, Chapter 7, SubChapter XIX, Government Printing Office, <a href="https://www.govinfo.gov/content/pkg/USCODE-2006-title42/pdf/USCODE-2006-title42-chap7-subchapXIX-sec1396a.pdf">https://www.govinfo.gov/content/pkg/USCODE-2006-title42/pdf/USCODE-2006-title42-chap7-subchapXIX-sec1396a.pdf</a>. A copy of which is available for copying and inspection at the Office of the Medicaid Inspector General, 800 North Pearl Street, 2nd Floor, Albany, NY 12204).</p> <p>(x) for MMCOs, describe the MMCO's implementation, where applicable, of the requirements of SubPart 521-2 of this Part.</p> <p>(3) The required provider shall review the written policies and procedures, and standards of conduct required by this subdivision at least annually to determine:</p> <p>(i) if such written policies, procedures, and standards of conduct have been implemented;</p> <p>(ii) whether affected individuals are following the policies, procedures, and standards of conduct;</p> <p>(iii) whether such policies, procedures, and standards of conduct are effective; and</p> <p>(iv) whether any updates are required.</p> <p>(b) Compliance officer. The required provider shall designate an individual to serve as its compliance officer. The compliance officer is the focal point for the required provider's compliance program and is responsible for the day-to-day operation of the compliance program. The required provider's designation of a compliance officer shall meet the following requirements:</p> <p>(1) The compliance officer's primary responsibilities shall include:</p> <p>(i) overseeing and monitoring the adoption, implementation and maintenance of the compliance program and evaluating its effectiveness;</p> <p>(ii) drafting, implementing, and updating no less frequently than annually or, as otherwise necessary, to conform to changes to Federal and State laws, rule, regulations, policies and standards, a compliance work plan which shall outline the required provider's proposed strategy for meeting the requirements of this section for the coming year, with a specific emphasis on subdivisions (a), (d), (g), (h) of this section and, if applicable, SubPart 521-2 of this Part;</p> <p>(iii) reviewing and revising the compliance program, and, in accordance with paragraph 3 of subdivision (a) of this section, the written policies and procedures and standards of conduct, to incorporate changes based on the required provider's organizational experience and promptly incorporate changes to Federal and State laws, rules, regulations, policies and standards;</p> <p>(iv) reporting directly, on a regular basis, but no less frequently than quarterly, to the required provider's governing body, chief executive, and compliance committee on the progress of adopting, implementing, and maintaining the compliance program;</p> <p>(v) assisting the required provider in establishing methods to improve the required provider's efficiency, quality of services, and reducing the required provider's vulnerability to fraud, waste and abuse;</p> <p>(vi) investigating and independently acting on matters related to the compliance program, including designing and coordinating internal investigations and documenting, reporting, coordinating, and pursuing any resulting corrective action with all internal departments, contractors and the State; and</p> <p>(vii) the compliance officer shall be responsible for coordinating the implementation of the fraud, waste, and abuse prevention program with the director and lead investigator of the MMCO's special investigation unit pursuant to SubPart 521-2 of this Part, if applicable.</p> <p>(2) The compliance officer shall report directly and be accountable to the required provider's chief executive or another senior manager whom the chief executive may designate for reporting purposes provided, however, such designation does not hinder the compliance officer in carrying out their duties and having access to the chief executive and governing body.</p> <p>(3) The responsibilities in paragraph (1) of this subdivision may be the compliance officer's sole duties or, depending on the size, complexity, resources, and culture of the required provider and the complexity of the tasks, the compliance officer may be assigned other duties, provided that such other duties do not hinder the compliance officer in carrying out their primary responsibilities under this SubPart.</p> <p>(4) The required provider shall ensure that the compliance officer is allocated sufficient staff and resources to satisfactorily perform their responsibilities for the day-to-day operation of the compliance program based on the required provider's risk areas and organizational experience.</p> <p>(5) The required provider shall ensure that the compliance officer and appropriate compliance personnel have access to all records, documents, information, facilities and affected individuals that are relevant to carrying out their compliance program responsibilities.</p> <p>(c) Compliance committee. The required provider shall designate a compliance committee which shall be responsible for coordinating with the compliance officer to ensure that the required provider is conducting its business in an ethical and responsible manner, consistent with its compliance program. The required provider shall outline the duties and responsibilities, membership, designation of a chair and frequency of meetings in a compliance committee charter. The required provider's designation of a compliance committee shall meet the following requirements:</p> <p>(1) The compliance committee's responsibilities shall include:</p> |

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|                 | <p>(i) coordinating with the compliance officer to ensure that the written policies and procedures, and standards of conduct required by subdivision (a) of this section are current, accurate and complete, and that the training topics required by subdivision (d) of this section are timely completed;</p> <p>(ii) coordinating with the compliance officer to ensure communication and cooperation by affected individuals on compliance related issues, internal or external audits, or any other function or activity required by this SubPart;</p> <p>(iii) advocating for the allocation of sufficient funding, resources and staff for the compliance officer to fully perform their responsibilities;</p> <p>(iv) ensuring that the required provider has effective systems and processes in place to identify compliance program risks, overpayments and other issues, and effective policies and procedures for correcting and reporting such issues; and</p> <p>(v) advocating for adoption and implementation of required modifications to the compliance program.</p> <p>(2) Membership in the committee shall, at a minimum, be comprised of senior managers. The compliance committee shall meet no less frequently than quarterly and shall, no less frequently than annually, review and update the compliance committee charter.</p> <p>(3) The compliance committee shall report directly and be accountable to the required provider's chief executive and governing body.</p> <p>(d) Training and education. The required provider shall establish and implement an effective compliance training and education program for its compliance officer and all affected individuals. The required provider's compliance training and education program shall meet the following requirements:</p> <p>(1) The training and education shall include, at a minimum, the following topics:</p> <p>(i) the required provider's risk areas and organizational experience;</p> <p>(ii) the required provider's written policies and procedures identified in subdivision (a) of this section;</p> <p>(iii) the role of the compliance officer and the compliance committee;</p> <p>(iv) how affected individuals can ask questions and report potential compliance-related issues to the compliance officer and senior management, including the obligation of affected individuals to report suspected illegal or improper conduct and the procedures for submitting such reports; and the protection from intimidation and retaliation for good faith participation in the compliance program;</p> <p>(v) disciplinary standards, with an emphasis on those standards related to the required provider's compliance program and prevention of fraud, waste and abuse;</p> <p>(vi) how the required provider responds to compliance issues and implements corrective action plans;</p> <p>(vii) requirements specific to the MA program and the required provider's category or categories of service;</p> <p>(viii) coding and billing requirements and best practices, if applicable;</p> <p>(ix) claim development and the submission process, if applicable; and</p> <p>(x) for MMCOs only, the fraud, waste and abuse prevention program, as specified in SubPart 521-2 of this Part, and any applicable terms of the MMCO's contract with the department to participate as an MMCO.</p> <p>(2) The compliance officer and all affected individuals shall complete the compliance training program required by this subdivision no less frequently than annually. The training and education required by this subdivision shall be made a part of the orientation of new compliance officers and affected individuals and shall occur promptly upon hiring.</p> <p>(3) Training and education shall be provided in a form and format accessible and understandable to all affected individuals, consistent with Federal and State language and other access laws, rules or policies.</p> <p>(4) The required provider shall develop and maintain a training plan. The training plan shall, at a minimum, outline the subjects or topics for training and education, the timing and frequency of the training, which affected individuals are required to attend, how attendance will be tracked, and how the effectiveness of the training will be periodically evaluated.</p> <p>(e) Lines of communication. The required provider shall establish and implement effective lines of communication which ensure confidentiality for the required provider's affected individuals. In designing its lines of communication, the required provider shall meet the following requirements:</p> <p>(1) The lines of communication shall be accessible to all affected individuals and allow for questions regarding compliance issues to be asked and for compliance issues to be reported.</p> <p>(2) The required provider shall publicize the lines of communication to the compliance officer and such lines of communication must be made available to all affected individuals and all MA recipients of service from the required provider.</p> <p>(3) The required provider shall have a method for anonymous reporting of potential fraud, waste and abuse, and compliance issues directly to the compliance officer.</p> <p>(4) The required provider must ensure that the confidentiality of persons reporting compliance issues shall be maintained unless the matter is subject to a disciplinary proceeding, referred to, or under investigation by, MFCU, OMIG or law enforcement, or disclosure is required during a legal proceeding, and such persons shall be protected under the required provider's policy for non-intimidation and non-retaliation.</p> <p>(5) If applicable, the required provider shall make available on its website, information concerning its compliance program, including its standards of conduct.</p> <p>(f) Disciplinary standards. The required provider shall establish disciplinary standards and shall implement procedures for the enforcement of such standards to address potential violations and encourage good faith participation in the compliance program by all affected individuals. In developing and enforcing its disciplinary standards, the required provider shall meet the following requirements:</p> <p>(1) The written policies and procedures establishing, pursuant to subdivision (a) of this section, the required provider's disciplinary standards and the procedures for taking such actions shall be published and disseminated to all affected individuals and shall be incorporated into the required provider's training plan as set forth in subdivision (d) of this section.</p> <p>(2) The required provider shall enforce its disciplinary standards fairly and consistently, and the same disciplinary action should apply to all levels of personnel.</p> |



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|                 | <p>(g) Auditing and monitoring. The required provider shall establish and implement an effective system for the routine monitoring and identification of compliance risks. The system should include internal monitoring and audits and, as appropriate, external audits, to evaluate the organization's compliance with the requirements of the MA program and the overall effectiveness of the required provider's compliance program. In developing its auditing and monitoring program the required provider shall meet the following requirements:</p> <p>(1) Auditing. Required providers shall perform routine audits by internal or external auditors who have expertise in state and federal MA program requirements and applicable laws, rules and regulations, or have expertise in the subject area of the audit. Audits or investigations conducted by state or federal governmental entities are not considered external audits for purposes of this paragraph. The audits required by this paragraph shall meet the following requirements:</p> <p>(i) Internal and external compliance audits shall focus on the risk areas identified in section 521-1.3 of this SubPart.</p> <p>(ii) The results of all internal or external audits, or audits conducted by the State or Federal government of the required provider, shall be reviewed for risk areas that can be included in updates to the required provider's compliance program and compliance work plan.</p> <p>(iii) The design, implementation, and results of any internal or external audits shall be documented, and the results shared with the compliance committee and the governing body.</p> <p>(iv) Any MA program overpayments identified shall be reported, returned and explained in accordance with the provisions of SubPart 521-3 of this Part and the required provider shall promptly take corrective action to prevent recurrence.</p> <p>(2) Annual compliance program review. The required provider shall develop and undertake a process for reviewing, at least annually, whether the requirements of this SubPart have been met. The purpose of such reviews shall be to determine the effectiveness of its compliance program, and whether any revision or corrective action is required.</p> <p>(i) The reviews may be carried out by the compliance officer, compliance committee, external auditors, or other staff designated by the required provider, provided however, that such other staff have the necessary knowledge and expertise to evaluate the effectiveness of the components of the compliance program they are reviewing and are independent from the functions being reviewed.</p> <p>(ii) The reviews should include on-site visits, interviews with affected individuals, review of records, surveys, or any other comparable method the required provider deems appropriate, provided that such method does not compromise the independence or integrity of the review.</p> <p>(iii) The required provider shall document the design, implementation and results of its effectiveness review, and any corrective action implemented.</p> <p>(iv) The results of annual compliance program reviews shall be shared with the chief executive, senior management, compliance committee and the governing body.</p> <p>(3) Excluded providers. In accordance with the requirements of section 515.5 of this Title, required providers shall confirm the identity and determine the exclusion status of affected individuals. In addition, MMCOs shall confirm the identity and determine the exclusion status of any other persons identified in its contract with the department to participate as an MMCO, including its participating providers and its subcontractors.</p> <p>(i) In determining the exclusion status of a person required providers shall review the following State and Federal databases at least every thirty (30) days:</p> <p>(a) New York State Office of the Medicaid Inspector General Exclusion List;</p> <p>(b) Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities; and</p> <p>(c) for MMCOs only, any other list or database required by the contract between the MMCO and the department to participate as an MMCO.</p> <p>(ii) Required providers shall require contractors to comply with the provisions of this paragraph. In addition, MMCOs shall require their participating providers and subcontractors to comply, where applicable, with the provisions of this paragraph.</p> <p>(4) The required provider shall promptly share the results of the activities required by this subdivision with the compliance officer and appropriate compliance personnel.</p> <p>(h) Responding to compliance issues. The required provider shall establish and implement procedures and systems for promptly responding to compliance issues as they are raised, investigating potential compliance problems as identified in the course of the internal auditing and monitoring conducted pursuant to subdivision (g) of this section, correcting such problems promptly and thoroughly to reduce the potential for recurrence, and ensuring ongoing compliance with State and Federal laws, rules and regulations, and requirements of the MA program. In developing its system for responding to compliance program issues, the required provider shall meet the following requirements:</p> <p>(1) Upon the detection of potential compliance risks and compliance issues, whether through reports received, or as a result of the auditing and monitoring conducted pursuant to subdivision (g) of this section, the required provider shall take prompt action to investigate the conduct in question and determine what, if any, corrective action is required, and likewise promptly implement such corrective action.</p> <p>(2) The required provider shall document its investigation of the compliance issue which shall include any alleged violations, a description of the investigative process, copies of interview notes and other documents essential for demonstrating that the required provider completed a thorough investigation of the issue. Where appropriate, the required provider may retain outside experts, auditors, or counsel to assist with the investigation.</p> <p>(3) The required provider shall document any disciplinary action taken and the corrective action implemented.</p> <p>(4) If the required provider identifies credible evidence or credibly believes that a State or Federal law, rule or regulation has been violated, the required provider shall promptly report such violation to the appropriate governmental entity, where such reporting is otherwise required by law, rule or regulation. The compliance officer shall receive copies of any reports submitted to governmental entities.</p> <p><b>Credits</b></p> <p>Filed Dec. 7, 2022 eff. Dec. 28, 2022 (Register dated Dec. 28, 2022).</p> <p>18 NYCRR 521-2.1</p> |



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|                 | <p><b>Section 521-2.1. Scope and applicability</b></p> <p><u><a href="#">Currentness</a></u></p> <p>(a) Scope. Social Services Law requires managed care providers, including managed long term care plans, to adopt and implement programs designed to detect and prevent fraud, waste and abuse in the MA program. This SubPart sets forth the standards for managed care fraud, waste and abuse prevention programs pursuant to <u><a href="#">subdivision 39 of section 364-j of the Social Services Law</a></u>.</p> <p>(b) Applicability. This SubPart applies to managed care providers and includes managed care long term care plans, which shall hereinafter be collectively, unless otherwise noted, referred to as “Medicaid managed care organizations” or “MMCO.”</p> <p>(c) Related regulations. Section 98-1.21 of Title 10 and section 86.6 of Title 11 set forth requirements related to the establishment and operation, for certain managed care plans, of fraud and abuse prevention plans and programs. MMCOs subject to those sections shall continue to comply with such requirements, provided that, as it pertains to the MMCO's participation in the MA program, the requirements of this SubPart are met. To the extent that any requirements of this SubPart conflict with or are greater than the requirements of those sections, the requirements of this SubPart shall apply to the MMCO.</p> <p><b>Credits</b></p> <p>Filed Dec. 7, 2022 eff. Dec. 28, 2022 (Register dated Dec. 28, 2022)</p> <p>18 NYCRR 521-2.2</p> <p><b>Section 521-2.2. Definitions</b></p> <p><u><a href="#">Currentness</a></u></p> <p>(a) For purposes of this SubPart, the terms defined in Parts 504 and 515 of this Title, and SubPart 521-1 of this Part, unless noted otherwise, shall apply.</p> <p>(b) In addition, for the purposes of this SubPart, the following terms have the following meanings:</p> <p>(1) “<i>Abuse</i>” means practices that are inconsistent with sound fiscal, business, medical or professional practices, and which result in unnecessary costs to the Medicaid program, payments for services that were not medically necessary, or payments for services which fail to meet recognized standards for health care. It also includes enrollee practices that result in unnecessary costs to the Medicaid program.</p> <p>(2) “<i>Fraud</i>” means an intentional deception or misrepresentation made with the knowledge that the deception could result in some unauthorized benefit to the provider, Contractor, Subcontractor, or another person and includes the acts prohibited by <u><a href="#">section 366-b of the Social Services Law</a></u>. It also includes any other act that constitutes fraud under applicable Federal or State law.</p> <p><b>Credits</b></p> <p>Filed Dec. 7, 2022 eff. Dec. 28, 2022 (Register dated Dec. 28, 2022).</p> <p>18 NYCRR 521-2.3</p> <p><b>Section 521-2.3. MMCO duties</b></p> <p><u><a href="#">Currentness</a></u></p> <p>(a) General. MMCOs shall adopt and implement policies and procedures designed to detect and prevent fraud, waste and abuse. Such policies and procedures shall satisfy the requirements of this SubPart. The MMCO's fraud, waste, and abuse prevention program may be a component of more comprehensive fraud, waste and abuse prevention activities by the MMCO, so long as the requirements of this SubPart are met.</p> <p>(b) Record retention, access to records and facilities, and cooperation with OMIG, Department and MFCU requests. In addition to the MMCO's record retention obligations under the MMCO's contract with the department to participate as an MMCO, an MMCO shall retain all records demonstrating that it has adopted, implemented and operated a fraud, waste and abuse prevention program which has satisfied the requirements of this SubPart.</p> <p>(1) The MMCO and its subcontractors shall retain records in accordance with the requirements of its contract with the department to participate as an MMCO.</p> <p>(2) The MMCO and its subcontractors shall provide to OMIG, the department or their authorized representatives, and MFCU, all records and information requested, in the form requested, and allow access to their facilities at any time. All copies of records must be provided free of charge. The MMCO and its subcontractors shall comply with any additional terms regarding access to records in accordance with the terms of its contract with the department to participate as an MMCO.</p> <p>(3) The MMCO and its subcontractor shall permit OMIG, the department and MFCU to conduct private interviews of MMCO personnel, its subcontractors and their personnel, witnesses, and enrollees. MMCO personnel, and subcontractors and their personnel must cooperate fully in making MMCO personnel, subcontractors and their personnel available in person for interviews, consultation, grand jury proceedings, pre-trial conferences, hearings, trial and in any other process, including investigation, at the MMCO's and subcontractor's own expense.</p> <p>(c) Contractors, agents, subcontractors, and independent contractors. MMCOs shall ensure that contracts with contractors, agents, subcontractors, independent contractors, and participating providers specify that the contractors, agents, subcontractors, independent contractors, and participating providers are subject to audit, investigation, or review under the MMCO's fraud, waste and abuse prevention program, to the extent that such contractors, agents, subcontractors, independent contractors, and participating providers relate to the MMCO's participation in the MA program.</p> <p><b>Credits</b></p> <p>Filed Dec. 7, 2022 eff. Dec. 28, 2022 (Register dated Dec. 28, 2022).</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>18 NYCRR 521-2.4</p> <p><b>Section 521-2.4. Fraud, waste and abuse prevention program requirements</b></p> <p><u><a href="#">Currentness</a></u></p> <p>(a) Compliance program. The MMCO shall adopt, implement and maintain a compliance program that satisfies the requirements of SubPart 521-1 of this Part. The MMCO shall be responsible for ensuring that the requirements of its fraud, waste and abuse prevention program are incorporated into its compliance program. Specifically, the MMCO shall:</p> <p>(1) incorporate into the written policies and procedures required by subdivision (a) of section 521-1.4 of this Part, the MMCO's policies and procedures for preventing, detecting and investigating fraudulent, wasteful or abusive activities by its participating providers, non-participating providers, contractors, agents, subcontractors, independent contractors, and any other person the MMCO or its subcontractors pay for ordering, providing, furnishing or arranging for a service to a MA program recipient. The MMCO shall also incorporate any other policies and procedures related to its obligations under this SubPart;</p> <p>(2) require its designated compliance officer, as required by subdivision (b) of section 521-1.4 of this Part, to be responsible, except where noted, for implementing the requirements of this SubPart, and shall be responsible for coordinating with the MMCO's SIU director, where applicable;</p> <p>(3) include, as part of the training required by subdivision (d) of section 521-1.4 of this Part, training of all personnel involved in identifying and evaluating instances of potential fraud, waste and abuse; and</p> <p>(4) include, as part of its auditing and monitoring activities as required by subdivision (g) of section 521-1.4 of this Part, the requirements of subdivision (c) of this section.</p> <p>(b) Special investigation unit (SIU). If the MMCO has an enrolled population of one thousand (1,000) or more persons in the aggregate in any given year, the MMCO shall establish a full-time SIU to identify risk and to detect and investigate cases of potential fraud, waste and abuse, report such cases to OMIG, and electively report potential fraud to MFCU, in accordance with the provisions of this SubPart and the terms of the MMCO's contract with the department to participate as an MMCO. The SIU must be separate and distinct from any other unit or function of the MMCO. In establishing its SIU, the MMCO shall meet the following requirements:</p> <p>(1) Staffing requirements. The MMCO shall dedicate sufficient staff and resources to the SIU to effectively detect and prevent fraud, waste and abuse in the New York State MA program.</p> <p>(i) The MMCO shall employ at least one full-time lead investigator and one SIU director who shall be based in the State of New York and be responsible for communicating and coordinating with OMIG or MFCU with respect to:</p> <p>(a) conducting fraud, waste and abuse investigations;</p> <p>(b) making fraud, waste and abuse referrals;</p> <p>(c) preparing investigatory reports;</p> <p>(d) investigating and remediating conflicts of interest;</p> <p>(e) identifying and recovering overpayments;</p> <p>(f) conducting provider terminations, education or re-education, and other related actions;</p> <p>(g) implementing the fraud, waste and abuse prevention program required by this SubPart;</p> <p>(h) participating in any meetings required by OMIG; and</p> <p>(i) participating in any meetings required by MFCU</p> <p>(ii) The MMCO shall employ at least one (1) full-time investigator per sixty thousand (60,000) enrollees, except in the case of an MLTCP, which shall employ at least one (1) full-time investigator per six thousand (6,000) enrollees. The MMCO shall employ investigators dedicated to servicing a particular county when that county on its own meets the designated investigator-to-enrollee ratio required by this paragraph. An MMCO may propose for OMIG's consideration alternative minimum staffing levels, provided the MMCO demonstrates to OMIG's satisfaction that its proposal would be no less effective than those required by this subparagraph and that the requirements of this SubPart can be fully met. The MMCO must apply for and receive written approval from OMIG of any alternative staffing levels prior to the implementation of any alternative minimum staffing levels. The approval or denial of any alternative staffing level proposal is at the discretion of the Medicaid Inspector General or their designee, and such approval may be rescinded by the Medicaid Inspector General or their designee with ninety 90 days' notice.</p> <p>(iii) In addition to investigators, the MMCO shall also employ or utilize existing employees who are certified coders, clinicians, data analysts, or pharmacists to support the work of the SIU.</p> <p>(2) SIU investigator qualifications. Persons employed by the SIU as investigators shall be qualified by education or experience, which shall include:</p> <p>(i) a minimum of five years in the healthcare field working in fraud, waste, and abuse investigations and audits, or five years of insurance claims investigation experience or professional investigation experience with law enforcement agencies, or seven years of professional investigation experience involving economic or insurance related matters;</p> <p>(ii) an associate's or bachelor's degree in criminal justice or a related field; or</p> <p>(iii) employment as an investigator in the MMCO's SIU on or before the effective date of this SubPart.</p> <p>(3) SIU work plan. No less frequently than annually, the SIU shall prepare a work plan outlining the activities that it plans to complete in the coming year. The SIU shall consider the MMCO's risk areas, as specified in SubPart 521-1 of this Part, and organizational experience in developing the work plan. The SIU work plan may be a standalone document, or a component of its larger compliance work plan required by SubPart 521-1 of this Part.</p> <p>(4) Delegation. The MMCO may delegate all or part of the functions of the SIU under this subdivision, provided, however, that it shall be no defense to enforcement of this SubPart that a subcontractor failed to provide effective service enabling the MMCO to comply with its obligations. The MMCO is ultimately responsible for meeting the requirements of this SubPart.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(i) The MMCO shall require that the subcontractor to whom it delegates the SIU function comply with all the requirements of this subdivision, and any other relevant requirements under this SubPart. The MMCO shall also require that the subcontractor cooperate fully with OMIG in any examination of the implementation of the fraud, waste and abuse prevention program required by this SubPart and provide any and all assistance requested by OMIG, the department, MFCU and any other law enforcement agency or any prosecutorial agency in the investigation of fraud, waste and abuse, and the prosecution of fraud and abuse and related crimes.</p> <p>(ii) The MMCO shall review any contract for SIU functions to determine if it delegates any management authority. An MMCO shall not enter into any agreement delegating management authority except pursuant to a management contract which complies with the requirements of subdivisions (h) through (s) of section 98-1.11 of Title 10 and section 98-1.18 of Title 10.</p> <p>(iii) If the MMCO enters into a management contract for all or part of its SIU function, the management contract shall be submitted to the department and OMIG, and included as part of the fraud, waste and abuse prevention plan required by subdivision (i) of this section.</p> <p>(c) MMCO audits and investigations. In addition to the auditing and monitoring requirements of subdivision (g) of section 521-1.4 of this Part, the MMCO shall audit, investigate, or review cases of fraud, waste or abuse specific to its participation in the MA program, and the MMCO's risk areas as specified in SubPart 521-1 of this Part. The MMCO shall conduct such audits, investigations or reviews in accordance with the following requirements and as specified in the contract between the MMCO and the department to participate as an MMCO:</p> <p>(1) The MMCO's SIU, if applicable, shall be primarily responsible for performing, or collaborating with and monitoring those individuals performing, such audits, investigations and reviews, and shall coordinate with the MMCO's designated compliance officer.</p> <p>(2) Such audits, investigations and reviews must involve at least one percent (1%) or more of the aggregate of MA program claims it pays to providers and subcontractors, based on the total prior year's claims paid by the MMCO. Such audits, investigations and reviews may review claims consistent with any lookback period established in the MMCO's contract with the Department to participate as an MMCO.</p> <p>(3) Such audits, investigations and reviews must be of clinical and billing records to verify that no duplicate payments were made, appropriate services were rendered and billed, appropriate procedure codes were utilized, and accurate encounter data was reported to the department.</p> <p>(d) Reporting cases of fraud, waste and abuse. The MMCO and its subcontractors shall report all cases of potential fraud, waste and abuse to OMIG. The MMCO may also report cases of potential fraud to the MFCU. In reporting such cases, the MMCO shall comply with the terms of its contract with the department to participate as an MMCO. The reports shall be reviewed and signed by an executive officer of the MMCO responsible for the operations of the SIU. In addition, the MMCO shall include the following information when reporting potential fraud, waste and abuse to OMIG:</p> <p>(1) Information about the subject of the report, including:</p> <p>(i) the name of the person or provider;</p> <p>(ii) the provider's Medicaid provider ID, if applicable;</p> <p>(iii) the person's or provider's national provider ID, if applicable;</p> <p>(iv) the person's or provider's address;</p> <p>(v) the type of provider; and</p> <p>(vi) any other information requested by OMIG.</p> <p>(2) The source and origin of the allegation;</p> <p>(3) The date the allegation was first reported to the MMCO, or the MMCO first became aware of the allegation;</p> <p>(4) A summary of the investigation, which shall be in a form and format approved by OMIG;</p> <p>(5) A description of the suspected misconduct, with specific details including:</p> <p>(i) the category of service;</p> <p>(ii) a factual explanation of the allegation;</p> <p>(iii) the specific MA program statutes, rules, regulations, and/or policies violated; and</p> <p>(iv) the date(s) of the conduct.</p> <p>(6) The amount the MMCO paid to the person or provider during the past three (3) years or during the period of the alleged misconduct, whichever is greater;</p> <p>(7) All communications between the MMCO and the provider or person concerning the conduct at issue;</p> <p>(8) The contact information for the MMCO SIU director, lead investigator, investigator(s) and staff with knowledge of the case;</p> <p>(9) An estimate of the overpayment, when available; and</p> <p>(10) Copies of the investigation file and related material.</p> <p>(e) The MMCO and its subcontractors shall immediately refer reasonably suspected criminal activity to OMIG and MFCU in accordance with the requirements specified in the MMCO's contract with the department to participate as an MMCO.</p> <p>(f) Report, return and explain. The MMCO shall establish policies and procedures in accordance with the requirements of <a href="#">section 363-d of the Social Services Law</a> for its participating providers and other subcontractors to report, return and explain overpayments to the MMCO within sixty (60) days of identification. The MMCO shall promptly report all recoveries, including recoveries which result from a provider or subcontractor reporting, returning and explaining an overpayment under this subdivision:</p> <p>(1) in its cost reports to the department, and in accordance with the instructions and directives of the department; and</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(2) in a monthly report to OMIG in a form and format to be determined by OMIG, or as otherwise specified in its contract with the department to participate as an MMCO.</p> <p>(g) The MMCO shall develop a fraud, waste and abuse detection procedures manual for use by officers, directors, managers, personnel, and subcontractors performing claims underwriting, member services, utilization management, complaint, investigative and/or SIU services.</p> <p>(h) Other program integrity requirements.</p> <p>(1) The MMCO shall develop a fraud, waste and abuse public awareness program focused on the cost and frequency of MA program fraud, and the methods by which the MMCO's enrollees, providers, and other contractors, agents, subcontractors, or independent contractors can prevent it. The MMCO shall make information regarding the public awareness program available on its website.</p> <p>(2) The MMCO shall make available on its website information on how and where to report, return and explain overpayments to the MMCO, in accordance with the requirements of subdivision (f) of this section.</p> <p>(i) Fraud, waste and abuse prevention plan.</p> <p>(1) Within ninety (90) calendar days of the effective date of this SubPart or of signing a new contract with the department to begin participation as an MMCO, the MMCO shall develop a fraud, waste and abuse prevention plan and shall submit such plan to OMIG.</p> <p>(2) The MMCO shall review and update such plan no less frequently than annually.</p> <p>(3) The plan shall include:</p> <p>(i) a description of the MMCO's program for preventing and detecting fraud, waste and abuse;</p> <p>(ii) a description, if applicable, of the organization of the SIU, including:</p> <p>(a) titles and job descriptions of the investigators, investigative supervisors and other staff;</p> <p>(b) the minimum qualifications for employment in these positions in addition to those qualifications required by this section;</p> <p>(c) the geographical location and assigned territory of each investigator and investigative supervisor;</p> <p>(d) the support staff and other physical resources, including database access available to the SIU; and</p> <p>(e) the supervisory and reporting structure within the SIU and between the SIU and senior management of the MMCO.</p> <p>(iii) If investigators employed by the unit will be responsible for investigating cases in more than one state, the plan must apportion that percentage of the investigators' efforts that will be devoted to New York cases;</p> <p>(iv) the rationale, if applicable and different from the minimum staffing levels required by subdivision (b) of this section, for the level of staffing and resources of the SIU which may include, but is not limited to, objective criteria such as the number of claims received with respect to the MMCO's participation in the New York State MA program on an annual basis, volume of potential fraud, waste and abuse for the MMCO's New York MA claims currently being detected, other factors relating to the vulnerability of the MMCO to fraud, waste and abuse, and an assessment of optimal caseload which can be handled by an investigator on an annual basis;</p> <p>(v) a description of the roles, responsibilities and interaction between the MMCO's:</p> <p>(a) designated compliance officer responsible for carrying out the provisions of the fraud, waste and abuse prevention program and the SIU;</p> <p>(b) SIU and the claims, quality, member services, utilization review, complaint procedures and underwriting functions of the MMCO for the purpose of enhancing the ability of the MMCO to detect fraud, waste and abuse and to increase the likelihood of its successful prosecution, and for the initiation of civil action when appropriate;</p> <p>(c) SIU and the MMCO's legal department; and</p> <p>(d) SIU and OMIG, the department, MFCU, or other law enforcement agencies and prosecutors;</p> <p>(vi) the MMCO's policies and procedures required by paragraph (1) of subdivision (a) of this section;</p> <p>(vii) the criteria the MMCO uses for the internal referral of a case to the SIU for evaluation, and the criteria the SIU utilizes for reporting cases of potential fraud, waste and abuse to the department and OMIG in accordance with subdivision (d) of this section;</p> <p>(viii) a description of the specific controls in place for the prevention and detection of potential fraud, waste and abuse, including a list of any automated pre-payment claims edits and a list of any automated post-payment review of claims;</p> <p>(ix) a description of the training required by paragraph (3) of subdivision (a) of this section;</p> <p>(x) the timetable for the implementation of the fraud, waste and abuse prevention plan, provided however, that the period preceding implementation shall not exceed one hundred and eighty (180) calendar days from the date the MMCO executes its contract with the department to participate as an MMCO and develops its fraud, waste and abuse prevention plan pursuant to paragraph (1) of this subdivision.</p> <p>(4) A fraud and abuse prevention plan developed in accordance with the provisions of section 98-1.21 of Title 10 or section 86.6 of Title 11 will satisfy the requirements of this subdivision, provided that the MMCO includes any additional information required by this subdivision.</p> <p>(j) Annual report. The MMCO shall on or before a date specified by OMIG, which shall be no sooner than January 31 of each calendar year, file with OMIG, in a form and format approved by OMIG, an annual report for the preceding calendar year, demonstrating that it has satisfied the requirements of this SubPart. Such report shall, at a minimum, include:</p> <p>(1) a description of the MMCO's experience, performance and cost effectiveness in implementing the fraud, waste and abuse prevention program;</p> <p>(2) the MMCO's proposals for modifications to its fraud, waste and abuse prevention program and plan, to amend its operations, to improve performance or to remedy observed deficiencies;</p> <p>(3) a summary of the MMCO's SIU staffing;</p> <p>(4) a summary of the activities of the MMCO's subcontractors or vendors who perform audit, investigation or review functions for the MMCO;</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(5) the total number of reported cases of potential fraud, waste or abuse identified by the MMCO, its subcontractor(s) or vendor(s);</p> <p>(6) the MMCO's SIU work plan for the next calendar year;</p> <p>(7) results of service verification reviews as specified in the MMCO's contract with the department to participate as an MMCO; and</p> <p>(8) any other information or data that OMIG may require relevant to the requirements of this SubPart or related requirements under the MMCO's contract with the department to participate as an MMCO.</p> <p>(k) Notwithstanding any requirement to report using forms or formats approved by OMIG under this SubPart or under the MMCO's contract with the department to participate as an MMCO, in the event that such form or format has not been promulgated, the MMCO shall report the substantive information required by this SubPart or the contract.</p> <p><b>Credits</b></p> <p>Filed Dec. 7, 2022 eff. Dec. 28, 2022 (Register dated Dec. 28, 2022).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        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|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p>NY State Fin § 190</p> <p><b>Civil actions for false claims</b></p> <p><b>Civil actions for false claims</b></p> <p><u>Currentness</u></p> <p>1. Civil enforcement actions. The attorney general shall have the authority to investigate violations under <u>section one hundred eighty-nine</u> of this article. If the attorney general believes that a person has violated or is violating such section, then the attorney general may bring a civil action on behalf of the people of the state of New York or on behalf of a local government against such person. A local government also shall have the authority to investigate violations that may have resulted in damages to such local government under <u>section one hundred eighty-nine</u> of this article, and may 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. No action may be filed pursuant to this subdivision against the federal government, the state or a local government, or any officer or employee thereof acting in his or her official capacity. The attorney general shall consult with the office of medicaid inspector general prior to filing any action related to the medicaid program.</p> <p>2. Qui tam civil actions. (a) Any person may bring a qui tam civil action for a violation of <u>section one hundred eighty-nine</u> of this article on behalf of the person and the people of the state of New York or a local government. No action may be filed pursuant to this subdivision against the federal government, the state or a local government, or any officer or employee thereof acting in his or her official capacity.</p> <p>For purposes of <u>subparagraphs (i) and (iv) of paragraph (a) of subdivision eight of section seventy-three of the public officers law</u>, any activity by a former government employee in connection with the securing of rights, protections or benefits related to preparing or filing an action under this article shall not be deemed to be an appearance or practice before any agency.</p> <p>(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 pursuant to <u>subdivision one of section three hundred seven of the civil practice law and rules</u>. Any complaint filed in a court of the state of New York shall be filed in supreme court 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 seal shall not preclude the attorney general, a local government, or the qui tam plaintiff 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 relevant state or local government agencies, or on law enforcement authorities of the state, a local government, or other jurisdictions, so that the actions may be investigated or prosecuted, except that such seal applies to the agencies or authorities so served to the same extent as the seal applies to other parties in the action.</p> <p>If the allegations in the complaint allege a violation of <u>section one hundred eighty-nine</u> of this article involving damages to a local government, then the attorney general may at any time provide a copy of such complaint and written disclosure to the attorney for such local government; provided, however, that if the allegations in the complaint involve damages only to a city with a population of one million or more, or only to the state and such a city, then the attorney general shall provide such complaint and written disclosure to the corporation counsel of such city within thirty days.</p> <p>The state may elect to supersede or intervene and proceed with the action, or to authorize a local government that may have sustained damages to supersede or intervene, within sixty days after it receives both the complaint and the material evidence and information; provided, however, that if the allegations in the complaint involve damages only to a city with a population of one million or more, then the attorney general may not supersede or intervene in such action without the consent of the corporation counsel of such city. The attorney general shall consult with the office of the medicaid inspector general prior to superseding or intervening in any action related to the medicaid program. The attorney general may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under this subdivision. Any such motions may be supported by affidavits or other submissions in camera.</p> <p>(c) Prior to the expiration of the sixty day period or any extensions obtained under paragraph (b) of this subdivision, the attorney general shall notify the court that he or she:</p> <p>(i) intends to file a complaint against the defendant on behalf of the people of the state of New York or a local government, and thereby be substituted as the plaintiff in the action and convert the action in all respects from a qui tam civil action brought by a private person into a civil enforcement action by the attorney general under subdivision one of this section;</p> <p>(ii) intends to intervene in such action, as of right, so as to aid and assist the plaintiff in the action; or</p> <p>(iii) if the action involves damages sustained by a local government, intends to grant the local government permission to: (A) file and serve a complaint against the defendant, and thereby be substituted as the plaintiff in the action and convert the action in all respects from a qui tam civil action brought by a private person into a civil enforcement action by the local government under subdivision one of this section; or (B) intervene in such action, as of right, so as to aid and assist the plaintiff in the action.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>The attorney general shall provide the local government with a copy of any such notification at the same time the court is notified.</p> <p>(d) If the state notifies the court that it intends to file a complaint against the defendant and thereby be substituted as the plaintiff in the action, or to permit a local government to do so, such complaint, whether filed separately or as an amendment to the qui tam plaintiff's complaint, must be filed within thirty days after the notification to the court. For statute of limitations purposes, any such complaint filed by the state or a local government shall relate back to the filing date of the complaint of the qui tam plaintiff, to the extent that the cause of action of the state or local government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the complaint of the qui tam plaintiff.</p> <p>(e) If the state notifies the court that it intends to intervene in the action, or to permit a local government to do so, then such motion to intervene, whether filed separately or as an amendment to the qui tam plaintiff's complaint, shall be filed within thirty days after the notification to the court. For statute of limitations purposes, any complaint filed by the state or a local government, whether filed separately or as an amendment to the qui tam plaintiff's complaint, shall relate back to the filing date of the complaint of the qui tam plaintiff, to the extent that the cause of action of the state or local government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the complaint of the qui tam plaintiff.</p> <p>(f) If the state declines to participate in the action or to authorize participation by a local government, the qui tam action may proceed subject to judicial review under this section, the civil practice law and rules, and other applicable law.</p> <p>The qui tam plaintiff shall provide the state or any applicable local government with a copy of any document filed with the court on or about the date it is filed, or any order issued by the court on or about the date it is issued. A qui tam plaintiff shall notify the state or any applicable local government within five business days of any decision, order or verdict resulting in judgment in favor of the state or local government.</p> <p>3. Time to answer. If the state decides to participate in a qui tam action or to authorize the participation of a local government, the court shall order that the qui tam complaint be unsealed and served at the time of the filing of the complaint or intervention motion by the state or local government. After the complaint is unsealed, or if a complaint is filed by the state or a local government pursuant to subdivision one of this section, the defendant shall be served with the complaint and summons pursuant to article three of the civil practice law and rules. A copy of any complaint which alleges that damages were sustained by a local government shall also be served on such local government. The defendant shall be required to respond to the summons and complaint within the time allotted under <i>rule three hundred twenty of the civil practice law and rules</i>.</p> <p>4. Related actions. When a person brings a qui tam action under this section, no person other than the attorney general, or a local government attorney acting pursuant to subdivision one of this section or paragraph (b) of subdivision two of this section, may intervene or bring a related civil action based upon the facts underlying the pending action; provided, however, that nothing in this subdivision shall be deemed to deny persons the right, upon leave of court, to file briefs amicus curiae.</p> <p>5. Rights of the parties of qui tam actions. (a) If the attorney general elects to convert the qui tam civil action into an attorney general enforcement action, then the state shall have the primary responsibility for prosecuting the action. If the attorney general elects to intervene in the qui tam civil action then the state and the person who commenced the action, and any local government which sustained damages and intervenes in the action, shall share primary responsibility for prosecuting the action. If the attorney general elects to permit a local government to convert the action into a civil enforcement action, then the local government shall have primary responsibility for investigating and prosecuting the action. If the action involves damages to a local government but not the state, and the local government intervenes in the qui tam civil action, then the local government and the person who commenced the action shall share primary responsibility for prosecuting the action. Under no circumstances shall the state or a local government be bound by an act of the person bringing the original action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (b) of this subdivision. Under no circumstances shall the state be bound by the act of a local government that intervenes in an action involving damages to the state. If neither the attorney general nor a local government intervenes in the qui tam action then the qui tam plaintiff shall have the responsibility for prosecuting the action, subject to the attorney general's right to intervene at a later date upon a showing of good cause.</p> <p>(b)(i) The state may move to dismiss the action notwithstanding the objections of the person initiating the action if the person has been served with the motion to dismiss and the court has provided the person with an opportunity to be heard on the motion. If the action involves damages to both the state and a local government, then the state shall consult with such local government before moving to dismiss the action. If the action involves damages sustained by a local government but not the state, then the local government may move to dismiss the action notwithstanding the objections of the person initiating the action if the person has been served with the motion to dismiss and the court has provided the person with an opportunity to be heard on the motion.</p> <p>(ii) The state or a local government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after an opportunity to be heard, that the proposed settlement is fair, adequate, and reasonable with respect to all parties under all the circumstances. Upon a showing of good cause, such opportunity to be heard may be held in camera.</p> <p>(iii) Upon a showing by the attorney general or a local government that the original plaintiff's unrestricted participation during the course of the litigation would interfere with or unduly delay the prosecution of the case, or would be repetitious or irrelevant, or upon a showing by the defendant that the original qui tam plaintiff's unrestricted participation during the course of the litigation would be for purposes of harassment or would cause the defendant undue burden, the court may, in its discretion, impose limitations on the original plaintiff's participation in the case, such as:</p> <p>(A) limiting the number of witnesses the person may call;</p> <p>(B) limiting the length of the testimony of such witnesses;</p> <p>(C) limiting the person's cross-examination of witnesses; or</p> <p>(D) otherwise limiting the participation by the person in the litigation.</p> <p>(c) Notwithstanding any other provision of law, whether or not the attorney general or a local government elects to supersede or intervene in a qui tam civil action, the attorney general and such local government may elect to pursue any remedy available with respect to the criminal or civil prosecution of the presentation of false claims, including any administrative proceeding to determine a civil money penalty or to refer the matter to the office of the medicaid inspector general for medicaid related matters. If any such alternate civil 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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(d) Notwithstanding any other provision of law, whether or not the attorney general elects to supersede or intervene in a qui tam civil action, or to permit a local government to supersede or intervene in the qui tam civil action, upon a showing by the state or local government that certain actions of discovery by the person initiating the action would interfere with the state's or a 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 sixty days. Such a showing shall be conducted in camera. The court may extend the period of such stay upon a further showing in camera that the state or a 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.</p> <p>6. Awards to qui tam plaintiff. (a) If the attorney general elects to convert the qui tam civil action into an attorney general enforcement action, or to permit a local government to convert the action into a civil enforcement action by such local government, or if the attorney general or a local government elects to intervene in the qui tam civil action, then the person or persons who initiated the qui tam civil action collectively shall be entitled to receive between fifteen and twenty-five percent of the proceeds recovered in the action or in settlement of the action. The court shall determine the percentage of the proceeds to which a person commencing a qui tam civil action is entitled, by considering the extent to which the plaintiff substantially contributed to the prosecution of the action. Where the court finds that the action was 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 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 person or persons bringing the action in advancing the case to litigation. Where the court finds that the action was based on disclosure of specific information related to the use of government funds during a declaration of a state of emergency, the court shall increase the percentage of the proceeds to which the person commencing such qui tam civil action is entitled by up to five percent more than the maximum percentage allowed pursuant to this paragraph. Any such person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, reasonable attorneys' fees, and costs pursuant to article eighty-one of the civil practice law and rules. All such expenses, fees, and costs shall be awarded against the defendant.</p> <p>(b) If the attorney general or a local government does not elect to intervene or convert the action, and the action is successful, then the person or persons who initiated the qui tam action which obtains proceeds shall be entitled to receive between twenty-five and thirty percent of the proceeds recovered in the action or settlement of the action. The court shall determine the percentage of the proceeds to which a person commencing a qui tam civil action is entitled, by considering the extent to which the plaintiff substantially contributed to the prosecution of the action. Where the court finds that the action was based on disclosure of specific information related to the use of government funds during a declaration of a state of emergency, the court shall increase the percentage of the proceeds to which the person commencing such qui tam civil action is entitled by up to ten percent more than the maximum percentage allowed pursuant to this paragraph. Such person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, reasonable attorneys' fees, and costs pursuant to article eighty-one of the civil practice law and rules. All such expenses, fees, and costs shall be awarded against the defendant.</p> <p>(c) With the exception of a court award of costs, expenses or attorneys' fees, any payment to a person pursuant to this paragraph shall be made from the proceeds.</p> <p>(d) If the attorney general or a local 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.</p> <p>7. Costs, expenses, disbursements and attorneys' fees. In any action brought pursuant to this article, the court may award any local government that participates as a party in the action an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees, plus costs pursuant to article eighty-one of the civil practice law and rules. All such expenses, fees and costs shall be awarded directly against the defendant and shall not be charged from the proceeds, but shall only be awarded if a local government prevails in the action.</p> <p>8. Exclusion from recovery. If the court finds that the qui tam civil action was brought by a person who planned or initiated the violation of <a href="#">section one hundred eighty-nine</a> of this article 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 be entitled to receive under subdivision six of this section, taking into account the role of such person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the qui tam civil action is convicted of criminal conduct arising from his or her role in the violation of <a href="#">section one hundred eighty-nine</a> of this article, that person shall be dismissed from the qui tam civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the attorney general to supersede or intervene in such action and to civilly prosecute the same on behalf of the state or a local government.</p> <p>9. Certain actions barred.</p> <p>(a) The court shall dismiss a qui tam action under this article if:</p> <p>(i) it is based on allegations or transactions which are the subject of a pending civil action or an administrative action in which the state or a local government is already a party;</p> <p>(ii) the state or local government has reached a binding settlement or other agreement with the person who violated <a href="#">section one hundred eighty-nine</a> of this article resolving the matter and such agreement has been approved in writing by the attorney general, or by the applicable local government attorney; or</p> <p>(iii) against a member of the legislature, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the state when the action was brought.</p> <p>(b) The court shall dismiss a qui tam action under this article, unless opposed by the state or an applicable local government, or unless the qui tam plaintiff is an original source of the information, if substantially the same allegations or transactions as alleged in the action were publicly disclosed:</p> <p>(i) in a state or local government criminal, civil, or administrative hearing in which the state or a local government or its agent is a party;</p> <p>(ii) in a federal, New York state or New York 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 six of the public officers law, 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;</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(iii) in 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.</p> <p>10. Liability. Neither the state nor any local government shall be liable for any expenses which any person incurs in bringing a qui tam civil action under this article.</p> <p><b>Credits</b><br/>(Added <a href="#">L.2007, c. 58, pt. C, § 39, eff. April 9, 2007, deemed eff. April 1, 2007</a>. Amended <a href="#">L.2010, c. 379, §§ 4 to 8, 12, eff. Aug. 27, 2010</a>; <a href="#">L.2013, c. 56, pt. A, §§ 9 to 9-b, eff. March 28, 2013, deemed eff. April 1, 2013</a>; <a href="#">L.2022, c. 791, § 1, eff. Dec. 28, 2022</a>.)</p> <p><b>NY State Fin § 190-a - Monies recovered</b><br/>Notwithstanding any law to the contrary, all monies recovered or obtained under this article by a state agency or state official or employee acting in their official capacity shall be subject to subdivision eleven of section four of this chapter.</p> <p> <b>Legislative History:</b> History: Add, <a href="#">L. 2014, ch 55, § 2</a> (Part HH), eff March 31, 2014</p> <p><b>NY State Fin § 192 - Limitation of actions, burden of proof</b><br/>1. A civil action under this article shall be commenced no later than ten years after the date on which the violation of this article is committed. Notwithstanding any other provision of law, for the purposes of this article, an action under this article is commenced by the filing of the complaint.</p> <p>(1-a) For purposes of applying rule three thousand sixteen of the civil practice law and rules, in pleading an 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 section one hundred eighty-nine of this article 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 effectively to investigate and defendants fairly to defend the allegations made.</p> <p>2. In any action brought under this article, the state, a local government that participates as a party in the action, or the person bringing the qui tam civil action, shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.</p> <p> <b>Legislative History:</b> History: Add, <a href="#">L.2007, ch 58, § 39</a> (Part C), eff April 9, 2007, deemed eff on and after April 1, 2007 (see 2007 note below)); amd, <a href="#">L. 2010, ch 379, §§ 10</a>, 11, eff Aug 27, 2010 (see 2010 note below).</p> <p>PART 400. PROCEDURAL REGULATIONS OF THE FALSE CLAIMS ACT</p> <p><b>13 NYCRR § 400.3 - Civil enforcement by local governments</b></p> <p>(a) A local government shall consult with the Attorney General prior to filing any action under section 190(1) of the False Claims Act related to the Medicaid program.</p> <p>(b) A local government filing an action under section 190(1) of the False Claims Act shall provide the Attorney General with a copy of the complaint on or about the date such complaint is filed.</p> <p>(c) Under no circumstances shall the state be bound by the act of a local government that files an action involving damages to the state.</p> <p>Added 400.3(effective 09/10/07) on 9/26/07, expired 90 days after filing; added 400.3(effective 12/07/07) on 12/26/07, expired 90 days after filing; added 400.3 on 2/27/08.</p> <p>Added Part 400 on 9/26/07, effective 09/10/07, expired 90 days after filing.</p> <p><b>13 NYCRR § 400.4 - Qui tam actions</b></p> <p>(a) All qui tam actions shall be served on the Attorney General by the personal delivery of the qui tam complaint and accompanying evidence to a person designated to receive service at the Managing Clerk's Office at 28 Liberty Street, New York, NY 10005, unless otherwise authorized by the Attorney General.</p> <p>(b) A local government, having been authorized by the Attorney General to supersede or intervene in a qui tam action on its own behalf pursuant to section 190(2) of the False Claims Act, shall cooperate with the Attorney General in any subsequent investigation related to the action.</p> <p>(c) If the State or a local government does not intervene or supersede after the 60 day time period or any extensions obtained under section 190(2)(b) of the False Claims Act, then the qui tam plaintiff has 30 days after such time period or extensions expire to decide whether to proceed with the action.</p> <p>(1) If the qui tam plaintiff elects to proceed with the action, the qui tam plaintiff shall so advise the court, the State, and applicable local governments, and cause the complaint to be unsealed. After the complaint is unsealed, the qui tam plaintiff shall serve the complaint on any defendant pursuant to the provisions of the Civil Practice Law and Rules and other applicable law.</p> <p>(2) If the qui tam plaintiff elects not to proceed with the action, the qui tam plaintiff shall either:</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p>(i) voluntarily discontinue the action, without an order and without unsealing the action, by filing with the court a notice of discontinuance and serving a copy of this notice on the Attorney General, who may in the Attorney General's discretion make an in camera motion to unseal the complaint; or</p> <p>(ii) seek to voluntarily discontinue the action by order of court by making an in camera motion to unseal the complaint and dismiss the action.</p> <p>(d) If the state or a local government decides not to intervene or supersede in a qui tam action, the qui tam plaintiff may not pursue the qui tam action on a pro se basis unless the qui tam plaintiff is an attorney eligible to represent a party before the court in which the qui tam action is proceeding.</p> <p><b>Credits</b><br/>Filed as emergency measure eff. Sept. 10, 2007, expired Dec. 8, 2007; emergency rulemaking eff. Dec. 7, 2007; expired March 5, 2008; adopted eff. Feb. 27, 2008; amd. filed Dec. 17, 2013 eff. Dec. 31, 2013; amd. filed June 20, 2018 eff. July 3, 2018.</p> <p><b>13 NYCRR § 400.5 - Public disclosure bar motions</b><br/>The state shall not seek to dismiss, and shall oppose the dismissal, of a qui tam action pursuant to paragraph (b) of subdivision nine of section one hundred ninety of the New York False Claims Act in the event that:</p> <p>(a) any cause of action in the qui tam plaintiff's complaint would be dismissed other than a cause of action alleging substantially the same allegations or transactions that have been publicly disclosed in a manner set forth in paragraph (b); or</p> <p>(b) any cause of action in the qui tam plaintiff's complaint would be dismissed pursuant to subparagraph (ii) of such paragraph (b) solely because of an alleged public disclosure in a federal report, hearing, audit, or investigation.</p> <p>Added 400.5 on 12/31/13.</p> <p><b>13 NYCRR § 400.6 - Application of the damage multiplier</b><br/>The state or a local government's damages shall be trebled or doubled pursuant to section one hundred eighty-nine of the New York False Claims Act before any subtractions are made for compensatory payments received by the government from any source, including but not limited to the defendant, or before any subtractions are otherwise made, because of any offset or credit received by the government by any source, including but not limited to the defendant.<br/>Added 400.6 on 12/31/13.</p> <p><b>13 NYCRR § 400.7 - Obligations</b><br/>(a) For purposes of paragraph (g) of subdivision one of section one hundred eighty nine of the New York False Claims Act, an "obligation" can be an obligation of any person and does not have to be an obligation of the person who knowingly makes, uses, or causes to be made or used, a false record or statement material to such obligation to pay or transmit money or property to the state or a local government.</p> <p>(b) For purposes of paragraph (h) of subdivision one of section one hundred eighty nine of the New York False Claims Act, an "obligation" can be an obligation of any person and does not have to be an obligation of the person who knowingly conceals or who knowingly and improperly avoids or decreases such obligation to pay or transmit money or property to the state or a local government, or who conspires to do the same.<br/>Added 400.7 on 12/31/13.</p> <p><b>13 NYCRR § 400.8 - Payment of costs and attorneys' fees</b><br/>A person who violates section one hundred eighty-nine of the New York False Claims Act shall be liable for the costs, including attorneys' fees, of a civil action brought to recover penalties or damages. Such person shall pay all costs borne by the state, a local government, a qui tam plaintiff, or counsel, as may be applicable. All such costs shall be awarded directly against the defendant and shall not be charged from the proceeds, but shall only be awarded if the state, local government or qui tam plaintiff prevails in the action.<br/>Added 400.8 on 12/31/13.</p> |

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|                 | <div>Whistle-blower Protections</div> <div>NY State Fin § 191</div> <div>Remedies of employees</div> <div><div>1. Any current or former employee, contractor, or agent of any private or public employer who is discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment, or otherwise harmed or penalized by an employer, or a prospective employer, because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action brought under this article or other efforts to stop one or more violations of this article, shall be entitled to all relief necessary to make the employee, contractor or agent whole. Such relief shall include but not be limited to:</div><div><div>(a) an injunction to restrain continued discrimination;</div><div>(b) hiring, contracting or reinstatement to the position such person would have had but for the discrimination or to an equivalent position;</div><div>(c) reinstatement of full fringe benefits and seniority rights;</div><div>(d) payment of two times back pay, plus interest; and</div><div>(e) compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.</div></div><div>2. For purposes of this section, a "lawful act" shall include, but not be limited to, obtaining or transmitting to the state, a local government, a qui tam plaintiff, or private counsel solely employed to investigate, potentially file, or file a cause of action under this article, documents, data, correspondence, electronic mail, or any other information, even though such act may violate a contract, employment term, or duty owed to the employer or contractor, so long as the possession and transmission of such documents are for the sole purpose of furthering efforts to stop one or more violations of this article. Nothing in this subdivision shall be interpreted to prevent any law enforcement authority from bringing a civil or criminal action against any person for violating any provision of law.</div><div>3. An employee, contractor or agent described in subdivision one of this section may bring an action in the appropriate supreme court for the relief provided in this section.</div><div>📌 Legislative History: History: Add, <a href="#">L 2007, ch 58, § 39</a> (Part C), eff April 9, 2007, deemed eff on and after April 1, 2007 (see 2007 note below)); amd, <a href="#">L 2010, ch 379, § 2</a>, eff Aug 27, 2010 (see 2010 note below).</div><div>NY Labor § 740 - Retaliatory action by employers; prohibition</div><div><div>1. Definitions. For purposes of this section, unless the context specifically indicates otherwise:</div><div><div>(a) “Employee” means an individual who performs services for and under the control and direction of an employer for wages or other remuneration, including former employees, or natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers.</div><div>(b) “Employer” means any person, firm, partnership, institution, corporation, or association that employs one or more employees.</div><div>(c) “Law, rule or regulation” includes: (i) any duly enacted federal, state or local statute or ordinance or executive order; (ii) any rule or regulation promulgated pursuant to such statute or ordinance or executive order; or (iii) any judicial or administrative decision, ruling or order.</div><div>(d) “Public body” includes the following:</div><div><div>(i) the United States Congress, any state legislature, or any elected local governmental body, or any member or employee thereof;</div><div>(ii) any federal, state, or local court, or any member or employee thereof, or any grand or petit jury;</div><div>(iii) any federal, state, or local regulatory, administrative, or public agency or authority, or instrumentality thereof;</div><div>(iv) any federal, state, or local law enforcement agency, prosecutorial office, or police or peace officer;</div><div>(v) any federal, state or local department of an executive branch of government; or</div><div>(vi) any division, board, bureau, office, committee, or commission of any of the public bodies described in subparagraphs (i) through (v) of this paragraph.</div></div><div>(e) “Retaliatory action” means an adverse action taken by an employer or his or her agent to discharge, threaten, penalize, or in any other manner discriminate against any employee or former employee exercising his or her rights under this section, including (i) adverse employment actions or threats to take such adverse employment actions against an employee in the terms of conditions of employment including but not limited to discharge, suspension, or demotion; (ii) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (iii) threatening to contact or contacting United States immigration</div></div></div></div> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member, as defined in <a href="#">subdivision two of section four hundred fifty-nine-a of the social services law</a>, to a federal, state, or local agency.</p> <p>(f) “Supervisor” means any individual within an employer's organization who has the authority to direct and control the work performance of the affected employee; or who has managerial authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.</p> <p>2. Prohibitions. An employer shall not take any retaliatory action against an employee, whether or not within the scope of the employee's job duties, because such employee does any of the following:</p> <p>(a) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety;</p> <p>(b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy or practice by such employer; or</p> <p>(c) objects to, or refuses to participate in any such activity, policy or practice.</p> <p>3. Application. The protection against retaliatory action provided by paragraph (a) of subdivision two of this section pertaining to disclosure to a public body shall not apply to an employee who makes such disclosure to a public body unless the employee has made a good faith effort to notify his or her employer by bringing the activity, policy or practice to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice. Such employer notification shall not be required where: (a) there is an imminent and serious danger to the public health or safety; (b) the employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (d) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or (e) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.</p> <p>4. Violation; remedy. (a) An employee who has been the subject of a retaliatory action in violation of this section may institute a civil action in a court of competent jurisdiction for relief as set forth in subdivision five of this section within two years after the alleged retaliatory action was taken.</p> <p>(b) Any action authorized by this section may be brought in the county in which the alleged retaliatory action occurred, in the county in which the complainant resides, or in the county in which the employer has its principal place of business. In any such action, the parties shall be entitled to a jury trial.</p> <p>(c) It shall be a defense to any action brought pursuant to this section that the retaliatory action was predicated upon grounds other than the employee's exercise of any rights protected by this section.</p> <p>5. Relief. In any action brought pursuant to subdivision four of this section, the court may order relief as follows:</p> <p>(a) an injunction to restrain continued violation of this section;</p> <p>(b) the reinstatement of the employee to the same position held before the retaliatory action, or to an equivalent position, or front pay in lieu thereof;</p> <p>(c) the reinstatement of full fringe benefits and seniority rights;</p> <p>(d) the compensation for lost wages, benefits and other remuneration;</p> <p>(e) the payment by the employer of reasonable costs, disbursements, and attorney's fees;</p> <p>(f) a civil penalty of an amount not to exceed ten thousand dollars; and/or</p> <p>(g) the payment by the employer of punitive damages, if the violation was willful, malicious or wanton.</p> <p>6. Employer relief. A court, in its discretion, may also order that reasonable attorneys' fees and court costs and disbursements be awarded to an employer if the court determines that an action brought by an employee under this section was without basis in law or in fact.</p> <p>7. Existing rights. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any other law or regulation or under any collective bargaining agreement or employment contract.</p> <p>8. Publication. Every employer shall inform employees of their protections, rights and obligations under this section, by posting a notice thereof. Such notices shall be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.</p> <p><b>Credits</b></p> <p>(Added L.1984, c. 660, § 2. Amended <a href="#">L.2002, c. 24, § 2, eff. April 2, 2002</a>; <a href="#">L.2006, c. 442, §§ 12, 13, eff. Nov. 1, 2006</a>; <a href="#">L.2019, c. 684, § 1, eff. Dec. 20, 2019</a>; <a href="#">L.2021, c. 522, § 1, eff. Jan. 26, 2022</a>.)</p> <p><b>NY Labor § 741 - Prohibition; health care employer who penalizes employees because of complaints of employer violations</b></p> <p>1. Definitions. As used in this section, the following terms shall have the following meanings:</p> <p>(a) “Employee” means any person who performs health care services for and under the control and direction of any public or private employer which provides health care services for wages or other remuneration.</p> <p>(b) “Employer” means any partnership, association, corporation, the state, or any political subdivision of the state which: (i) provides health care services in a facility licensed pursuant to article twenty-eight or <a href="#">thirty-six of the public health law</a>; (ii) provides health care services within a primary or secondary public or private school or public or private university setting; (iii) operates and provides health care services under the mental hygiene law or the correction law; or (iv) is registered with the department of education pursuant to <a href="#">section sixty-eight hundred eight of the education law</a>.</p> <p>(c) “Agent” means any individual, partnership, association, corporation, or group of persons acting on behalf of an employer.</p> |

| State /Citation       | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                       | <p>(d) “Improper quality of patient care” means, with respect to patient care, any practice, procedure, action or failure to act of an employer which violates any law, rule, regulation or declaratory ruling adopted pursuant to law, where such violation relates to matters which may present a substantial and specific danger to public health or safety or a significant threat to the health of a specific patient.</p> <p>(e) “Improper quality of workplace safety” means, with respect to employees, any practice, procedure, action or failure to act of an employer which violates any law, rule, regulation, or declaratory ruling adopted pursuant to law where such violation relates to matters which may present an unsafe workplace environment or risk of employee safety or a significant threat to the health of a specific employee.</p> <p>(f) “Public body” means:</p> <p>(1) the United States Congress, any state legislature, or any elected local governmental body, or any member or employee thereof;</p> <p>(2) any federal, state or local court, or any member or employee thereof, any grand or petit jury;</p> <p>(3) any federal, state or local regulatory, administrative or public agency or authority, or instrumentality thereof;</p> <p>(4) any federal, state or local law enforcement agency, prosecutorial office, or police or peace officer;</p> <p>(5) any federal, state or local department of an executive branch of government;</p> <p>(6) any division, board, bureau, office, committee or commission of any of the public bodies described in subparagraph one, two, three, four or five of this paragraph.</p> <p>(g) “Retaliatory action” means the discharge, suspension, demotion, penalization or discrimination against an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.</p> <p>(h) “Supervisor” means any person within an employer's organization who has the authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of a law, rule or regulation to which an employee submits a complaint.</p> <p>2. Retaliatory action prohibited. Notwithstanding any other provision of law, no employer shall take retaliatory action against any employee because the employee does any of the following:</p> <p>(a) discloses or threatens to disclose to a supervisor, to a public body, to a news media outlet, or to a social media forum available to the public at large, an activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety; or</p> <p>(b) objects to, or refuses to participate in any activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety.</p> <p>3. Application. The protection against retaliatory personnel action provided by subdivision two of this section shall not apply unless the employee has brought the improper quality of patient care or improper quality of workplace safety to the attention of a supervisor and has afforded the employer a reasonable opportunity to correct such activity, policy or practice. This subdivision shall not apply to an action or failure to act described in paragraph (a) of subdivision two of this section where the improper quality of patient care or improper quality of workplace safety described therein presents an imminent threat to public health or safety or to the health of a specific patient or specific health care employee and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.</p> <p>4. Enforcement. A health care employee may seek enforcement of this section pursuant to <u>subdivisions four</u> and <u>five of section seven hundred forty</u> of this article.</p> <p>5. Relief. In any court action brought pursuant to this section it shall be a defense that the personnel action was predicated upon grounds other than the employee's exercise of any rights protected by this section.</p> <p>6. Publication. Every employer shall inform employees of their protections, rights and obligations under this section by posting a notice thereof. Such notices shall be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.</p> <p><b>Credits</b><br/>(Added <u>L.2002, c. 24, § 1, eff. April 2, 2002</u>. Amended <u>L.2003, c. 505, § 1, eff. Sept. 9, 2003</u>; <u>L.2020, c. 117, § 1, eff. June 17, 2020</u>; <u>L.2021, c. 522, § 2, eff. Jan. 26, 2022</u>.)</p> |
| <u>North Carolina</u> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b></p> <p><a href="https://www.ncdbhs.gov/contact/report-fraud">https://www.ncdbhs.gov/contact/report-fraud</a></p> <p><a href="https://medicaid.ncdbhs.gov/meetings-and-notices/ocpifraud-waste-and-abuse">https://medicaid.ncdbhs.gov/meetings-and-notices/ocpifraud-waste-and-abuse</a></p> <p><a href="https://ncdoj.gov/responding-to-crime/health-fraud/">https://ncdoj.gov/responding-to-crime/health-fraud/</a></p> <p><b>N.C. Gen. Stat. § 1-605 - 1618 False Claims Act</b><br/><a href="https://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_1/Article_51.html">https://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_1/Article_51.html</a></p> <p><b>N.C. Gen. Stat. § 1-606 - Definitions</b><br/><a href="https://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_1/§s_1-606.html">https://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_1/§s_1-606.html</a></p> <p><b>N.C. Gen. Stat. § 1-607 - False claims; acts subjecting persons to liability for treble damages; costs and civil penalties; exceptions</b><br/><a href="https://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_1/§s_1-607.html">https://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_1/§s_1-607.html</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>N.C. Gen. Stat. § 1-608 - Civil actions for false claims<br/><a href="https://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_1/gs_1-608.html">https://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_1/gs_1-608.html</a></p> <p>N.C. Gen. Stat. § 108A-70.10 et seq<br/><b>Medical Assistance Provider False Claims Act.</b><br/><a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.10.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.10.html</a></p> <p>N.C. Gen. Stat. § 108A-70.11 - <b>Definitions</b><br/><a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.11.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.11.html</a></p> <p>N.C. Gen. Stat. § 108A-70.12<br/><b>Liability for certain acts; damages; effect of repayment</b><br/><a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.12.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.12.html</a></p> <p>N.C. Gen. Stat. § 108A-70.13<br/><b>False Claims Procedure</b><br/><a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.13.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.13.html</a></p> <p>N.C. Gen. Stat. § 108A-70.14<br/><b>Civil Investigative Demand</b><br/><a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.14.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.14.html</a><br/>HEALTH INSURANCE PROGRAM FOR CHILDREN</p> <p>N.C. Gen. Stat. § 108A-70.28<br/><b>Fraudulent misrepresentation</b><br/><a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.28.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.28.html</a></p> <p>N.C. Gen. Stat. § 58-2-161<br/><b>False statement to procure or deny benefit of insurance policy or certificate</b><br/><a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_58/GS_58-2-161.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_58/GS_58-2-161.html</a></p> <p>N.C. Gen. Stat. § 58-2-162<br/><b>Embezzlement by insurance agents, brokers, or administrators</b><br/><a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_58/GS_58-2-162.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_58/GS_58-2-162.html</a></p> <p>N.C. Gen. Stat. § 108A-25.3<br/><b>Garnishment of wages to recoup fraudulent public assistance program payment.</b><br/><a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-25.3.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-25.3.html</a></p> <p>N.C. Gen. Stat. § 108A-63<br/><b>Medical assistance provider fraud</b><br/><a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-63.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-63.html</a></p> <p>N.C. Gen. Stat. § 108A-64<br/><b>Medical assistance recipient fraud</b></p> |

| State /Citation                                                                                       | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                                                                                                       | <a href="https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-64.html">https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-64.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                                                                       | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                                                       | <b>N.C. Gen. Stat. § 1-609 - Rights of the parties to qui tam actions</b><br><a href="http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_1/GS_1-609.html">http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_1/GS_1-609.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                                                                                       | <b>N.C. Gen. Stat. § 1-610 - Award to qui tam plaintiff</b><br><a href="http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_1/GS_1-610.html">http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_1/GS_1-610.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                                                                       | <b>N.C. Gen. Stat. § 1-615 – False Claims Procedure</b><br><a href="http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_1/GS_1-615.html">http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_1/GS_1-615.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                                                       | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <u>North Dakota</u><br><br>N.D. Cent. Code, § 50-24.1-36<br><br>N.D. Admin. Code 75-02-05-05 et. seq. | <b>N.C. Gen. Stat. § 1-613 – Private action for retaliation action</b><br><a href="http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_1/GS_1-613.html">http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_1/GS_1-613.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                                                       | N.C. Gen. Stat. § 108A-70.15<br><b>Employee remedies</b><br><a href="http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.15.html">http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_108A/GS_108A-70.15.html</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                                                                       | <b>Criminal and Civil Penalties for False Claims and Statements</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                                                                                                       | <b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud:</b><br><a href="https://www.hhs.nd.gov/healthcare/medicaid/provider/fraud-and-abuse">https://www.hhs.nd.gov/healthcare/medicaid/provider/fraud-and-abuse</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                                                       | N.D. Cent. Code, § 50-24.1-36 - <b>Civil sanction -- Costs recoverable -- Interest -- Appeals.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                                                                                                       | <b>§ 50-24.1-36. Civil sanction--Costs recoverable--Interest--Appeals</b><br><u>Currentness</u><br><br>1. For purposes of this section:<br>a. “Affiliate” means a person having an overt or covert relationship each with another person in a manner that one person directly or indirectly controls or has the power to control another.<br>b. “Provider” means any individual or entity furnishing Medicaid services under a provider agreement with the department.<br><br>2. A provider, an affiliate of a provider, or any combination of provider and affiliates, is liable to the department for up to twenty-five percent of the amount the department was induced to pay as a result of each act of fraud or abuse. This sanction is in addition to the applicable rules established by the department.<br>3. A provider, an affiliate of a provider, or any combination of provider and affiliates, is liable to the department for up to five thousand dollars on each act of fraud or abuse which did not induce the department to make an erroneous payment. This sanction is in addition to the applicable rules established by the department.<br>4. A provider, an affiliate of a provider, or any combination of provider and affiliates, that is assessed a civil sanction by the department also shall reimburse the department investigation fees, costs, and expenses for any investigation and action brought under this section.<br>5. Unless otherwise provided in a judgment entered against a provider or against an affiliate of the provider, overpayments and sanctions accrue interest at the legal rate beginning thirty days after the department provides written notice to the provider or the affiliate of the provider. |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>6. a. A provider or an affiliate of a provider who is assessed a sanction may request a review of the sanction by filing within thirty days of the date of the department's notice of sanction a written notice with the department which includes a statement of each disputed item and the reason or basis for the dispute.</p> <p>b. A provider or an affiliate of a provider may not request review under this section if the sanction imposed is termination or suspension and the notice of sanction states that the basis for the sanction is either:</p> <p>(1) The provider's or affiliate's failure to meet standards of licensure, certification, or registration where those standards are imposed by state or federal law as a condition to participation in the Medicaid program; or</p> <p>(2) The provider or affiliate has been similarly sanctioned by the Medicare program or by another state's Medicaid program.</p> <p>c. Within thirty days after requesting a review, a provider or affiliate shall provide to the department all documents, written statements, exhibits, and other written information that supports the request for review.</p> <p>d. The department shall assign a provider's or affiliate's request for review to someone other than an individual who was involved in imposing the sanction. A provider or affiliate who has requested review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.</p> <p>e. The department shall make and issue its final decision within seventy-five days of receipt of the notice of request for review. The department's final decision must conform to the requirements of <a href="#">section 28-32-39</a>. A provider or affiliate may appeal the final decision of the department to the district court in the manner provided in <a href="#">section 28-32-42</a>, and the district court shall review the department's final decision in the manner provided in <a href="#">section 28-32-46</a>. The judgment of the district court in an appeal from a request for review may be reviewed in the supreme court on appeal by any party in the same manner as provided in <a href="#">section 28-32-49</a>.</p> <p>f. Upon receipt of notice that the provider or affiliate has appealed its final decision to the district court, the department shall make a record of all documents, written statements, exhibits, and other written information submitted by the provider, affiliate, or the department in connection with the request for review and the department's final decision on review, which constitutes the entire record. Within thirty days after an appeal has been taken to district court as provided in this section, the department shall prepare and file in the office of the clerk of the district court in which the appeal is pending the original and a certified copy of the entire record, and that record must be treated as the record on appeal for purposes of <a href="#">section 28-32-44</a>.</p> <p>7. Determinations of medical necessity may not lead to imposition of remedies, duties, prohibitions, and sanctions under this section.</p> <p>8. The remedies, duties, prohibitions, and sanctions of this section are not exclusive and are in addition to all other causes of action, remedies, penalties, and sanctions otherwise provided by law or by provider agreement.</p> <p>9. The state's share of all civil sanctions, investigation fees, costs, expenses, and interest received by the department under this section must be deposited into the general fund.</p> <p><b>Credits</b></p> <p><a href="#">S.L. 2013, ch. 380, § 1</a>, eff. Aug. 1, 2013; <a href="#">S.L. 2019, ch. 408 (H.B. 1115), § 37</a>, eff. July 1, 2019.</p> <p><b>PROVIDER INTEGRITY</b></p> <p>N.D. Admin. Code 75-02-05-01 <i>et seq</i><br/><a href="http://www.legis.nd.gov/information/acdata/pdf/75-02-05.pdf">http://www.legis.nd.gov/information/acdata/pdf/75-02-05.pdf</a></p> <p>Section</p> <p>75-02-05-01 - Purpose</p> <p>75-02-05-02 - Authority and Objective</p> <p>75-02-05-03 - Definitions</p> <p>75-02-05-04 - Provider Responsibility</p> <p>75-02-05-05 - Grounds for Sanctioning Providers</p> <p>75-02-05-06 - Reporting of Violations and Investigation</p> <p>75-02-05-07 - Activities Leading to and Including Sanction</p> <p>75-02-05-08 - Imposition and Extent of Sanction [Repealed]</p> <p>75-02-05-09 - Appeal and Reconsideration</p> <p>75-02-05-10 - Provider Information Sessions [Repealed]</p> <p>N.D. Admin. Code 75-02-05-01. Purpose.</p> <p>The purpose underlying administrative remedies and sanctions in the Medicaid and children's health insurance program is to ensure the proper and efficient utilization of Medicaid and children's health insurance program funds by those individuals providing medical and other health services and goods to recipients.</p> <p>History: Effective July 1, 1980; amended effective July 1, 2012; April 1, 2018.</p> <p>General Authority: NDCC 50-06-01.9, 50-24.1-04, 50-29-02</p> <p>Law Implemented: NDCC 50-24.1-01</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>N.D. Admin. Code <b>75-02-05-05. Grounds for sanctioning providers.</b></p> <p>Sanctions may be imposed by the department against a provider who:</p> <ol style="list-style-type: none"><li>1. Presents or causes to be presented for payment any false or fraudulent claim for care or services.</li><li>2. Submits or causes to be submitted false, intentionally misleading, or fraudulent information for the purpose of obtaining greater compensation than that to which the provider is legally entitled.</li><li>3. Submits or causes to be submitted false, intentionally misleading, or fraudulent information for the purpose of meeting prior authorization or level of care requirements.</li><li>4. Submits or causes to be submitted false, intentionally misleading, or fraudulent information in an application status for provider status under the Medicaid or children's health insurance program or any quality review or other submission required to maintain enrollment.</li><li>5. Fails to disclose or make available to the department or its authorized agent records of services provided to Medicaid and children's health insurance program recipients and records of payments received for those services; or fails to make available records from the provider's practice that allows department staff to evaluate overall scheduling, patient-to-provider ratios, review billing practices, or evaluate the feasibility of services provided per day.</li><li>6. Submits a false, intentionally misleading, or fraudulent certification or statement, whether the certification or statement is explicit or implied, to the department or department's representative or to any other publicly or privately funded health care program.</li><li>7. Fails to provide and maintain services to Medicaid and children's health insurance program recipients within accepted medical and industry standards. Failing to provide or maintain quality services, or a requisite assurance of a framework of quality services to Medicaid and children's health insurance program recipients within accepted medical community standards as adjudged by professional peers, if applicable. For purposes of this subsection, “quality services” mean services provided in accordance with the applicable rules and regulations governing the services.</li><li>8. Fails to comply with the terms of the Medicaid provider agreement or provider certification which is printed on the Medicaid claim form.</li><li>9. Overutilizes the Medicaid and children's health insurance program by inducing, furnishing, or otherwise causing a recipient to receive care and services that are not medically necessary.</li><li>10. Rebates or accepts a fee or portion of a fee or charge for a Medicaid and children's health insurance program patient referral.</li><li>11. Is convicted of a criminal offense arising out of the practice of medicine.</li><li>12. Fails to comply and to maintain compliance with all regulations and statutes, both state and federal, which are applicable to the provider's profession, business, or enterprise.</li><li>13. Is excluded from Medicare.</li><li>14. Is suspended, excluded from participation, terminated, or sanctioned by any other state's Medicaid and children's health insurance program.</li><li>15. Is suspended or involuntarily terminated from participation in any governmentally sponsored medical program.</li><li>16. Bills or collects from the recipient any amount in violation of section 75-02-05-04.</li><li>17. Fails to correct deficient provider operations within a reasonable time, not to exceed thirty days, after receiving written notice of these deficiencies from the department, another responsible state agency, or their designees.</li><li>18. Is formally reprimanded or censured by an association of the provider's peers for unethical practices.</li><li>19. Fails to change or modify delivery patterns and services within a reasonable period after receipt of a request so to do by a peer review committee whose jurisdiction includes the provider.</li><li>20. Is convicted of a criminal offense arising out of the making of false or fraudulent statements or of an omission of fact for the purpose of securing any governmental benefit to which the provider is not entitled, or out of conspiring, soliciting, or attempting such an action.</li><li>21. Refuses to repay or make arrangements for the repayment of identified overpayments or otherwise erroneous payments. A refusal of repayment exists if no repayment or arrangement for repayment is made within thirty days of the date written notice of discrepancy was sent.</li><li>22. Is served with a search warrant by a member of any law enforcement agency for the purpose of obtaining evidence of a crime of fraud committed by that provider against the Medicaid or children's health insurance program, or is charged with such a crime, provided that no provider may be terminated from participation in the Medicaid or children's health insurance program on such grounds.</li><li>23. Refuses to attend a department educational program or fails to agree to implement a business integrity agreement, if required by the department.</li><li>24. Defrauds any health care benefit program.</li></ol> <p><b><i>Credits :History: Effective July 1, 1980; amended effective November 1, 1983; July 1, 2012; April 1, 2018.</i></b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>ND ST 26.1-04-02</p> <p><b>§ 26.1-04-02. Unfair methods of competition or unfair and deceptive acts or practices prohibited</b></p> <p><u><a href="#">Currenttness</a></u></p> <p>A person may not engage in this state in any trade practice defined in this chapter as, or determined pursuant to this chapter to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.</p> <p>ND ST 26.1-04-03</p> <p><b>§ 26.1-04-02. Unfair methods of competition or unfair and deceptive acts or practices defined</b></p> <p>The following are unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:</p> <ol style="list-style-type: none"><li>1. Misrepresentations and false advertising of policy contracts. Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policies, or making any misleading representation or any misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurance company operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy or for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance.</li><li>2. False information and advertising generally. 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, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of that person's insurance business, which is untrue, deceptive, or misleading.</li><li>3. Defamation. 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 or derogatory to the financial condition of any person, and which is calculated to injure any person engaged in the business of insurance.</li><li>4. Boycott, coercion, and intimidation. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.</li><li>5. False financial statements. Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of any person with intent to deceive. Making any false entry in any book, report, or statement of any person with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom the person is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of the person in any book, report, or statement of the person.</li><li>6. Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.</li><li>7. Unfair discrimination.<ol style="list-style-type: none"><li>a. Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.</li><li>b. Making or permitting any unfair discrimination, including consideration of an individual's history or status as a subject of domestic abuse, between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatsoever.</li><li>c. Refusing to insure, or refusing to continue to insure, or limiting the amount, extent, or kind of life insurance, accident and sickness insurance, health services, or health care protection insurance available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness. Refusal to insure includes denial by an insurer of disability insurance coverage on the grounds that the policy defines “disability” as being presumed in the event that the insured loses the insured's eyesight; however, an insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness when such condition existed at the time the policy was issued. With respect to all other conditions, including the underlying cause of the blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons.</li></ol></li></ol> |

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|                 | <p>d. Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazard by refusing to insure, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk solely because of the geographic location of the risk, unless the action is the result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience.</p> <p><b>2023 North Dakota Laws H.B. 1429 (West's No. 505)</b></p> <p><b>SECTION 2.</b> A new subdivision to subsection 7 of section 26.1–04–03 of the North Dakota Century Code is created and enacted as follows:</p> <p>&lt;&lt; ND ST 26.1–04–03 &gt;&gt;</p> <p><b>Refusing to insure or charging a different rate solely in consideration of the risk's environmental, social, and governance criteria; diversity, equity, and inclusion policies; or political and ideological factors, unless the refusal or different rate is the result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience.</b></p> <p>8. Rebates.</p> <p>a. Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity, or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to the insurance or annuity any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatsoever not specified in the contract; or giving, selling, or purchasing, or offering to give, sell, or purchase as inducement to the insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.</p> <p>b. Subsection 7 or subdivision a of this subsection do not prohibit the following practices:</p> <p>(1) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders;</p> <p>(2) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses; and</p> <p>(3) Readjusting the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for the policy year.</p> <p>c. Notwithstanding any other provision in this subsection, if the cost does not exceed an aggregate retail value of one hundred dollars per person per year, an insurance producer may give a gift, prize, promotional article, logo merchandise, meal, or entertainment activity directly or indirectly to a person in connection with marketing, promoting, or advertising the business. As used in this subdivision, “person” means the named insured, policy owner, or prospective client or the spouse of any of these individuals, but the term does not include a certificate holder, child, or employee of the named insured, policy owner, or prospective client. Subject to the limits of this subdivision, an insurance producer may give a gift card for specific merchandise or services such as a meal, gasoline, or car wash but may not give cash, a cash card, any form of currency, or any refund or discount in premium. An insurance producer may not condition the giving of a gift, prize, promotion article, logo merchandise, meal, or entertainment activity on obtaining a quote or a contract of insurance. Notwithstanding the limitation in this subdivision, an insurance producer may conduct raffles or drawings, if there is no financial cost to an entrant to participate, the drawing or raffle does not obligate a participant to purchase insurance, the prizes are not valued in excess of a reasonable amount determined by the commissioner, and the drawing or raffle is open to the public. The raffle or drawing must be offered in a manner that is not unfairly discriminatory and may not be contingent on the purchase, continued purchase, or renewal of a policy. Notwithstanding the limitation in this subdivision, an insurance producer may make a donation to a nonprofit organization that is exempt from federal taxation under <a href="#">Internal Revenue Code section 501(c)(3)</a> [<a href="#">26 U.S.C. 501(c)(3)</a>] in any amount as long as the donation is not given as an inducement to obtain a contract of insurance.</p> <p>d. The provisions in this subsection may not be construed as including within the definition of discrimination or rebates any of the following practices:</p> <p>(1) The offer or provision by an insurer or producer, by or through an employee, an affiliate, or a third-party representative, of value-added products or services at no or reduced cost if such products or services are not specified in the policy of insurance if the product or service:</p> <p>(a) Relates to the insurance coverage and is designed to satisfy one or more of the following:</p> <p>[1] Provide loss mitigation or loss control;</p> <p>[2] Reduce claims costs or claim settlement costs;</p> <p>[3] Provide education about liability risk or risk of loss to persons or property;</p> <p>[4] Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;</p> <p>[5] Enhance health;</p> <p>[6] Enhance financial wellness through items such as education of financial planning services;</p> <p>[7] Provide post-loss services;</p> <p>[8] Incent behavioral changes to improve the health or reduce the risk of death or disability of an individual defined as policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured, or applicant; or</p> |

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|                 | <p>[9] Assist in the administration of the employee or retiree benefit insurance coverage.</p> <p>(b) If offered by the insurer or producer, the insurer or producer, upon request, shall ensure the person is provided with contact information to assist the person with questions regarding the product or service.</p> <p>(c) Is based on documented objective criteria and offered in a manner not unfairly discriminatory. The documented criteria must be maintained by the insurer or producer and produced at the request of the commissioner.</p> <p>(d) Is reasonable in comparison to that person's premiums or insurance coverage for the policy class.</p> <p>(2) If an insurer or producer does not have sufficient evidence, but has a good-faith belief the product or service meets the criteria in paragraph 1 of subdivision d of subsection 8, the insurer or producer may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for no longer than one year. An insurer or producer shall notify the department of the pilot or testing program offered to consumers in this state before launching and may proceed with the program unless the department objects within twenty-one days of notice.</p> <p>e. An insurer, producer, or representative of an insurer or producer may not offer or provide insurance as an inducement to the purchase of another policy or otherwise use of the words “free” or “no cost” or words of similar import in an advertisement.</p> <p>f. The commissioner may adopt regulations when implementing the permitted practices set forth in this subsection to ensure consumer protection. Consistent with applicable law, the topics addressed by the regulations may include consumer data protections and privacy, consumer disclosure, and unfair discrimination.</p> <p>9. Unfair claim settlement practices. Committing any of the following acts, if done without just cause and if performed with a frequency indicating a general business practice:</p> <p>a. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages at issue.</p> <p>b. Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under insurance policies.</p> <p>c. Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.</p> <p>d. Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims submitted in which liability has become reasonably clear.</p> <p>e. Compelling insureds to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them when the insureds have made claims for amounts reasonably similar to the amounts ultimately recovered.</p> <p>f. Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.</p> <p>g. Attempting settlement or compromise of claims on the basis of applications which were altered without notice to, or knowledge or consent of, insureds.</p> <p>h. Attempting to settle a claim for less than the amount to which a reasonable person would have believed one was entitled by reference to written or printed advertising material accompanying or made a part of an application.</p> <p>i. Attempting to delay the investigation or payment of claims by requiring an insured and the insured's physician to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.</p> <p>j. Failing to affirm or deny coverage of claims within a reasonable time after proof of loss has been completed.</p> <p>k. Refusing payment of claims solely on the basis of the insured's request to do so without making an independent evaluation of the insured's liability based upon all available information.</p> <p>l. Providing coverage under a policy issued under chapter 26.1-45 or 26.1-36.1 for confinement to a nursing home and refusing to pay a claim when a person is covered by such a policy and the person's physician ordered confinement pursuant to the terms of the policy for care other than custodial care. Custodial care means care which is primarily for the purpose of meeting personal needs without supervision by a registered nurse or a licensed practical nurse.</p> <p>m. Failure to use the standard health insurance proof of loss and claim form or failure to pay a health insurance claim as required by <a href="#">section 26.1-36-37.1</a>.</p> <p>It is not a prohibited practice for a health insurance company with participating provider agreements to require that a subscriber or member using a nonparticipating provider be responsible for providing the insurer a copy of medical records used for claims processing.</p> <p>10. Unfair handling of communications by insurance company. Failing to adopt and implement reasonable standards for the prompt handling of written communications, primarily expressing grievances, received by the insurance company from insureds or claimants.</p> <p>11. Refusing to insure risks. Refusing to insure risks solely because of race, color, creed, sex, or national origin, or refusing to continue to insure risks solely because an employer chooses to offer a health maintenance organization option to employees in its health benefit plan.</p> <p>12. Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, insurance producer, or individual.</p> <p>13. Failure to refund unearned premiums. Failing to refund within thirty days of the cancellation of an insured's policy the unearned premium paid for that insurance policy. However, for commercial lines of insurance policies which are audited by the insurer to determine premium, the refund of premium must be made within thirty days from the date the insurer receives from the insured that information which is reasonably necessary for the insurer to audit the insured's business to determine the premium due to the insurer.</p> <p>14. As used in subsections 15, 16, 17, 18, and 19, unless the context otherwise requires:</p> <p>a. “Entity” includes a third-party administrator, an insurance company as defined in <a href="#">section 26.1-02-01</a>, a health maintenance organization, or any other entity providing a plan of health insurance subject to state insurance regulation.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>b. “Health care provider” means a person that delivers, administers, or supervises health care products or services, for profit or otherwise, in the ordinary course of business or professional practice.</p> <p>c. “Health plan” means any public or private plan or arrangement that provides or pays the cost of health benefits, including any organization of health care providers that furnishes health services under a contract or agreement with this type of plan.</p> <p>d. “Medical communication” means any communication, other than a knowing and willful misrepresentation, made by a health care provider to a patient regarding the health care needs or treatment options of the patient and the applicability of the health plan to the patient's needs or treatment. The term includes communications concerning:</p> <p>(1) Tests, consultations, and treatment options;</p> <p>(2) Risks or benefits associated with tests, consultations, and options;</p> <p>(3) Variation in experience, quality, or outcome among any health care providers or health care facilities providing any medical service;</p> <p>(4) The process, basis, or standard used by an entity to determine whether to authorize or deny health care services or benefits; and</p> <p>(5) Financial incentives or disincentives based on service utilization provided by an entity to a health care provider.</p> <p>e. “Patient” includes a former, current, or prospective patient or the guardian or legal representative of any former, current, or prospective patient.</p> <p>15. a. Interference with certain medical communications. An entity offering a health plan may not restrict or interfere with any medical communication and may not take any of the following actions against a health care provider solely on the basis of a medical communication:</p> <p>(1) Refusal to contract with the health care provider;</p> <p>(2) Termination of or refusal to renew a contract with the health care provider;</p> <p>(3) Refusal to refer patients to or allow others to refer patients to the health care provider; or</p> <p>(4) Refusal to compensate the health care provider for covered services that are medically necessary.</p> <p>b. This subsection does not prohibit an entity from enforcing, as part of a contract or agreement to which a health care provider is a party, any mutually agreed-upon terms and conditions, including terms and conditions requiring a health care provider to participate in and cooperate with all programs, policies, and procedures developed or operated by a health plan to assure, review, or improve the quality and effective utilization of health care services, if the utilization is according to guidelines or protocols that are based on clinical or scientific evidence and only if the guidelines or protocols under the utilization do not prohibit or restrict medical communications between providers and their patients.</p> <p>16. Unfair indemnification. A contract between an entity and a health care provider may not require the health care provider to indemnify the entity for the entity's negligence, willful misconduct, or breach of contract, and may not require a health care provider as a condition of participation to waive any right to seek legal redress against the entity. In addition to the proceedings and penalties provided in this chapter, a contract provision violating this subsection is void.</p> <p>17. Incentives to withhold medically necessary care. An entity may not offer a health care provider, and a contract with a health care provider under a health plan may not contain, an incentive plan that includes a specific payment made to, or withheld from, the provider as an inducement to deny, reduce, limit, or delay medically necessary care covered by the health plan and provided with respect to a patient. This subsection does not prohibit incentive plans, including capitation payments or shared-risk arrangements, that are not tied to specific medical decisions with respect to a patient. In addition to the proceedings and penalties provided in this chapter, a contract provision violating this subsection is void. As used in this subsection, “medically necessary care” means health care services, supplies, or treatments that a reasonably prudent physician or other health care provider would provide to a patient for the prevention, diagnosis, or treatment of illness, injury, disease, or its symptoms which are in accordance with generally accepted standards of medical practice, clinically appropriate in terms of type, frequency, extent, site, and duration, and not primarily for the convenience of the patient, physician, or other health care provider. This definition does not preclude an entity from establishing a definition of “medically necessary care” for determining which services are covered by the health plan.</p> <p>18. Retaliation for patient advocacy. An entity may not take any of the following actions against a health care provider solely because the provider, in good faith, reports to state or federal authorities an act or practice by the entity that jeopardizes patient health or welfare, or advocates on behalf of a patient in a utilization review program or grievance procedure:</p> <p>a. Refusal to contract with the health care provider;</p> <p>b. Termination of or refusal to renew a contract with the health care provider;</p> <p>c. Refusal to refer patients to or allow others to refer patients to the health care provider; or</p> <p>d. Refusal to compensate the health care provider for covered services that are medically necessary.</p> <p>19. Unfair reimbursement. An entity may not require that a health care provider receive under a health plan, pursuant to policies of the entity or a contract with the health care provider, the lowest payment for services and items that the health care provider charges or receives from any other entity. In addition to the proceedings and penalties provided in this chapter, a contract provision violating this subsection is void.</p> <p>20. Unfair referral. An insurer, insurance producer, or third-party administrator referring an individual employee to the association, or arranging for an individual employee to apply to the association for the purpose of separating that employee from group health insurance coverage provided in connection with the employee's employment.</p> <p>21. Unfair compensation. Basing the compensation, including performance bonuses or incentives, of claims employees or contracted claims personnel on the following:</p> <p>a. The number of policies canceled.</p> <p>b. The number of times coverage is denied.</p> <p>c. Use of a quota limiting or restricting the number or volume of claims.</p> |




| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>d. Use of an arbitrary quota or cap limiting or restricting the amount of claims payments without due consideration to the merits of the claim.</p> <p><i>Credits</i></p> <p>S.L. 1983, ch. 332, § 4; S.L. 1983, ch. 334, § 2; S.L. 1985, ch. 327, § 2; S.L. 1987, ch. 336, § 1; S.L. 1987, ch. 337, § 1; S.L. 1989, ch. 348, § 1; <a href="#">S.L. 1991, ch. 304, § 1</a>; <a href="#">S.L. 1997, ch. 248</a>, §§ 1 to 3; <a href="#">S.L. 1999, ch. 251, § 4</a>; <a href="#">S.L. 1999, ch. 257</a>, §§ 1, 2; <a href="#">S.L. 2001, ch. 262, § 10</a>; <a href="#">S.L. 2003, ch. 211, § 17</a>; <a href="#">S.L. 2003, ch. 239, § 2</a>; <a href="#">S.L. 2009, ch. 244, § 1</a>, eff. Aug. 1, 2009; <a href="#">S.L. 2011, ch. 214, § 1</a>, eff. Aug. 1, 2011; <a href="#">S.L. 2011, ch. 215, § 1</a>, eff. Aug. 1, 2011; <a href="#">S.L. 2017, ch. 214 (S.B. 2140), § 1</a>, eff. Aug. 1, 2017; <a href="#">S.L. 2019, ch. 35 (S.B. 2010), § 7</a>, eff. July 1, 2019; <a href="#">S.L. 2021, ch. 233 (S.B. 2072), § 2</a>, eff. Aug. 1, 2021.; <b>2023 North Dakota Laws H.B. 1429 (West's No. 505)</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                 | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                 | <p>N.D. Cent. Code, § 26.1-04-03</p> <p><b>26.1-04-03. Unfair methods of competition and unfair or deceptive acts or practices defined.</b></p> <p><a href="http://www.legis.nd.gov/cencode/t26-1c04.pdf?20131209213623">http://www.legis.nd.gov/cencode/t26-1c04.pdf?20131209213623</a></p> <p>The following are unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:</p> <p>18. Retaliation for patient advocacy. An entity may not take any of the following actions against a health care provider solely because the provider, in good faith, reports to state or federal authorities an act or practice by the entity that jeopardizes patient health or welfare, or advocates on behalf of a patient in a utilization review program or grievance procedure:</p> <p>a. Refusal to contract with the health care provider;</p> <p>b. Termination of or refusal to renew a contract with the health care provider;</p> <p>c. Refusal to refer patients to or allow others to refer patients to the health care provider; or</p> <p>d. Refusal to compensate the health care provider for covered services that are medically necessary.</p> <p>S.L. 1983, ch. 332, § 4; S.L. 1983, ch. 334, § 2; S.L. 1985, ch. 327, § 2; S.L. 1987, ch. 336, § 1; S.L. 1987, ch. 337, § 1; S.L. 1989, ch. 348, § 1; <a href="#">S.L. 1991, ch. 304, § 1</a>; <a href="#">S.L. 1997, ch. 248</a>, §§ 1 to 3; <a href="#">S.L. 1999, ch. 251, § 4</a>; <a href="#">S.L. 1999, ch. 257</a>, §§ 1, 2; <a href="#">S.L. 2001, ch. 262, § 10</a>; <a href="#">S.L. 2003, ch. 211, § 17</a>; <a href="#">S.L. 2003, ch. 239, § 2</a>; <a href="#">S.L. 2009, ch. 244, § 1</a>, eff. Aug. 1, 2009; <a href="#">S.L. 2011, ch. 214, § 1</a>, eff. Aug. 1, 2011; <a href="#">S.L. 2011, ch. 215, § 1</a>, eff. Aug. 1, 2011; <a href="#">S.L. 2017, ch. 214 (S.B. 2140), § 1</a>, eff. Aug. 1, 2017; <a href="#">S.L. 2019, ch. 35 (S.B. 2010), § 7</a>, eff. July 1, 2019; <a href="#">S.L. 2021, ch. 233 (S.B. 2072), § 2</a>, eff. Aug. 1, 2021.; <i>2023 North Dakota Laws H.B. 1429 (West's No. 505)</i></p> <p>N.D. Cent. Code, § 34-01-20 - <b>Employer retaliation prohibited -- Civil action for relief -- Penalty</b></p> <p><a href="http://www.legis.nd.gov/cencode/t34c01.pdf?20131209214318">http://www.legis.nd.gov/cencode/t34c01.pdf?20131209214318</a></p> <p><b>1.</b> An employer may not discharge, discipline, threaten discrimination, or penalize an employee regarding the employee’s compensation, conditions, location, or privileges of employment because:</p> <p><b>a.</b> The employee, or a person acting on behalf of an employee, in good faith, reports a violation or suspected violation of federal, state, or local law, ordinance, regulation, or rule to an employer, a governmental body, or a law enforcement official.</p> <p><b>b.</b> The employee is requested by a public body or official to participate in an investigation, a hearing, or an inquiry.</p> <p><b>c.</b> The employee refuses an employer’s order to perform an action that the employee believes violates local, state, or federal law, ordinance, rule, or regulation. The employee must have an objective basis in fact for that belief and shall inform the employer that the order is being refused for that reason.</p> <p><b>2.</b> An employer who willfully violates this section is guilty of an infraction.</p> <p><b>3.</b> An employee asserting a violation of this section may bring a civil action for injunctive relief or actual damages, or both, within one hundred eighty days after the alleged violation, completion of proceedings under subsection 4, or completion of any grievance procedure available to the employee under the employee’s collective bargaining agreement, employment contract, or any public employee statute, rule, or policy, whichever is later. If the court determines that a violation has or is occurring under this section, the court may order, as the court deems appropriate, reinstatement of the employee, backpay for no more than two years after the violation, reinstatement of fringe benefits, temporary or permanent injunctive relief, or any combination of these remedies. Interim earnings or amounts earnable with reasonable diligence by the employee, from the same employer, must reduce backpay otherwise allowable. In any action under this section, the court may award reasonable attorney’s fees to the prevailing party as part of the costs of litigation. An employee whose collective bargaining agreement, employment contract, or public employee rights provides a process through which recourse for conduct prohibited by subsection 1 is available must exercise that process to completion before commencing an action under this subsection, and if that process provides for judicial review by statutory appeal, then recourse under this subsection is not available.</p> |




| State /Citation                                                                                                                                                                                                                                  | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                                                                                                                                                                                                                                                  | <p>4. The department of labor and human rights shall receive complaints of violations of this section and may attempt to obtain voluntary compliance with this section through informal advice, negotiation, or conciliation. In order to receive assistance from the department of labor and human rights, a person claiming to be aggrieved by a violation of this section shall file a complaint with the department within three hundred days after the alleged act of wrongdoing. An employee is not prohibited from filing, or required to file, a complaint with the department of labor and human rights under this subsection before proceeding under other provisions of this section.</p> <p><b>History</b> - <a href="#">S.L. 1993, ch. 346, § 1</a>; <a href="#">1997, ch. 291, § 1</a>; <a href="#">1999, ch. 309, § 1</a>; <a href="#">2001, ch. 307, § 1</a>; <a href="#">2013, ch. 254, § 3</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><u>Ohio</u></p> <p><b>OH ST §</b> 2913.40<br/><b>OH ST §.</b> 2913.401<br/><b>OH ST §</b> 5111.03<br/><b>OH ST §</b> 5164.35<br/><b>OH ST §</b> 2921.11<br/><b>OH ST §</b> 2921.13</p> <p>OAC Ann. 5101:3-1-29<br/><b>OH ST §</b> 124.341</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="http://dodd.ohio.gov/Medicaid/Pages/Report-Medicaid-Fraud.aspx">http://dodd.ohio.gov/Medicaid/Pages/Report-Medicaid-Fraud.aspx</a><br/><a href="https://www.ohioattorneygeneral.gov/ReportMedicaidFraud">https://www.ohioattorneygeneral.gov/ReportMedicaidFraud</a><br/><a href="https://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Health-Care-Fraud">https://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Health-Care-Fraud</a></p> <p>OH ST § 2913.40<br/><b>- Medicaid fraud</b><br/>(A) As used in this section:</p> <p>(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.</p> <p>(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.</p> <p>(3) "Provider agreement" has the same meaning as in <a href="#">section 5164.01 of the Revised Code</a>.</p> <p>(4) "Recipient" means any individual who receives goods or services from a provider under the medicaid program.</p> <p>(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.</p> <p>(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.</p> <p>(C) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:</p> <p>(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 <a href="#">section 5162.20 of the Revised Code</a> or rules adopted by the medicaid director regarding the medicaid program.</p> <p>(2) Solicit, offer, or receive any remuneration, other than any cost-sharing expenses authorized by <a href="#">section 5162.20 of the Revised Code</a> 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.</p> <p>(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:</p> <p>(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;</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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.</p> <p>(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.</p> <p>(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, <a href="#">section 5164.35 of the Revised Code</a>, or any other provision of law.</p> <p>(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.</p> <p>📌<b>History:</b> 141 v H 340 (Eff 5-20-86); 143 v H 672 (Eff 11-14-89); <a href="#">146 v S 2</a> (Eff 7-1-96); <a href="#">148 v H 471</a> (Eff 7-1-2000); <a href="#">149 v S 261</a>. Eff 6-5-2002; <a href="#">151 v H 66</a>, § 101.01, eff. 9-29-05; <a href="#">152 v H 119</a>, § 101.01, eff. 9-29-07; <a href="#">2011 HB 86, § 1</a>, eff. Sept. 30, 2011; <a href="#">2013 HB 59, § 101</a>.01, eff. Sept. 29, 2013.</p> <p><b>OH ST § 2913.401 - Medicaid eligibility fraud</b></p> <p><b>(A)</b> As used in this section:</p> <p class="list-item-l1">(1) "Medicaid services" has the same meaning as in <a href="#">section 5164.01 of the Revised Code</a>.</p> <p class="list-item-l1">(2) "Property" means any real or personal property or other asset in which a person has any legal title or interest.</p> <p><b>(B)</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:</p> <p class="list-item-l1">(1) Make or cause to be made a false or misleading statement;</p> <p class="list-item-l1">(2) Conceal an interest in property;</p> <p class="list-item-l1">(3) <b>(a)</b> 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;</p> <p class="list-item-l1">(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.</p> <p><b>(C)</b> <b>(1)</b> 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.</p> <p class="list-item-l1">(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| RC 5111.03.     | <p>services were paid to the date on which restitution is made.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p> <b>History:</b> <a href="#">151 v H 66</a>, § 101.01, eff. 9-29-05; <a href="#">2011 HB 86, § 1</a>, eff. Sept. 30, 2011; <a href="#">2013 HB 59, § 101</a>.01, eff. Sept. 29, 2013.</p> <p><b>OH ST § 2913.47 - Insurance fraud</b><br/>(A) As used in this section:</p> <p>(1) "Data" has the same meaning as in <a href="#">section 2913.01 of the Revised Code</a> and additionally includes any other representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner.</p> <p>(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.</p> <p>(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 <a href="#">section 3929.43 of the Revised Code</a>, any health insuring corporation, and any legal entity that is self-insured and provides benefits to its employees or members.</p> <p>(4) "Policy" means a policy, certificate, contract, or plan that is issued by an insurer.</p> <p>(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.</p> <p>(B) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following:</p> <p>(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;</p> <p>(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.</p> <p>(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.</p> <p>(D) This section shall not be construed to abrogate, waive, or modify division (A) of <a href="#">section 2317.02 of the Revised Code</a>.</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>📌History:<br/>143 v H 347 (Eff 7-18-90); <a href="#">146 v.S 2</a> (Eff 7-1-96); <a href="#">146 v.S 262</a> (Eff 7-1-96); <a href="#">147 v.S 67</a>. Eff 6-4-97; <a href="#">2011 HB 86, § 1</a>, eff. Sept. 30, 2011.</p> <p><b>OH ST § 5164.35 - Offenses by providers; penalties; termination of agreement; exclusion of individual, provider, or entity</b></p> <p>(A) As used in this section, "owner" means any person having at least five per cent ownership in a medicaid provider.</p> <p>(B) (1) No medicaid provider shall do any of the following:</p> <p>(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;</p> <p>(b) Willfully receive payments to which the provider is not entitled;</p> <p>(c) Willfully receive payments in a greater amount than that to which the provider is entitled;</p> <p>(d) Falsify any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments.</p> <p>(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, 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.</p> <p>(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:</p> <p>(1) Payment of interest on the amount of the excess payments at the maximum interest rate allowable for real estate mortgages under <a href="#">section 1343.01 of the Revised Code</a> on the date the payment was made to the provider for the period from the date upon which payment was made, to the date upon which repayment is made to the state;</p> <p>(2) Payment of an amount equal to three times the amount of any excess payments;</p> <p>(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;</p> <p>(4) All reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.</p> <p>(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 <a href="#">section 109.85 of the Revised Code</a>, 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 to 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 <a href="#">section 109.85 of the Revised Code</a>. 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 <a href="#">section 109.85 of the Revised Code</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                 | <p>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.</p> <p>(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.</p> <p>(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.</p> <p> <b>History:</b> <a href="#">RC § 5101.51.1</a>, 137 v S 159 (Eff 4-24-78); <a href="#">RC § 5111.03</a>, 138 v H 176 (Eff 7-1-80); 140 v H 291 (Eff 7-1-83); 141 v H 428 (Eff 12-23-86); 142 v S 196 (Eff 10-20-87); 143 v H 111 (Eff 7-1-89); <a href="#">144 v H 904</a> (Eff 12-22-92); <a href="#">145 v H 152</a> (Eff 7-1-93); <a href="#">148 v H 471</a>. Eff 7-1-2000; <a href="#">150 v H 95</a>, § 1, eff. 6-26-03; <a href="#">152 v H 119</a>, § 101.01, eff. 9-29-07; <a href="#">2013 HB 59, § 101</a>.01, eff. Sept. 29, 2013.</p> <p><b>OH ST § 2921.11 - Perjury</b></p> <p>(A) No person, in any official proceeding, shall knowingly make a false statement under oath or affirmation, or knowingly swear or affirm the truth of a false statement previously made, when either statement is material.</p> <p>(B) A falsification is material, regardless of its admissibility in evidence, if it can affect the course or outcome of the proceeding. It is no defense to a charge under this section that the offender mistakenly believed a falsification to be immaterial.</p> <p>(C) It is no defense to a charge under this section that the oath or affirmation was administered or taken in an irregular manner.</p> <p>(D) Where contradictory statements relating to the same material fact are made by the offender under oath or affirmation and within the period of the statute of limitations for perjury, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.</p> <p>(E) No person shall be convicted of a violation of this section where proof of falsity rests solely upon contradiction by testimony of one person other than the defendant.</p> <p>(F) Whoever violates this section is guilty of perjury, a felony of the third degree.</p> <p><b>History:</b> 134 v H 511. Eff 1-1-74.</p> <p><b>R.C. § 5164.35</b><br/><b>Formerly cited as OH ST § 5111.03</b><br/><b>5164.35 Payments obtained by provider's deception; civil penalties and termination of provider agreement</b></p> <p>(A) As used in this section, “owner” means any person having at least five per cent ownership in a medicaid provider.</p> <p>(B)(1) No medicaid provider shall do any of the following:</p> <p>(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;</p> <p>(b) Willfully receive payments to which the provider is not entitled;</p> <p>(c) Willfully receive payments in a greater amount than that to which the provider is entitled;</p> <p>(d) Falsify any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments.</p> <p>(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,</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>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.</p> <p>(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:</p> <p>(1) Payment of interest on the amount of the excess payments at the maximum interest rate allowable for real estate mortgages under <a href="#">section 1343.01 of the Revised Code</a> on the date the payment was made to the provider for the period from the date upon which payment was made, to the date upon which repayment is made to the state;</p> <p>(2) Payment of an amount equal to three times the amount of any excess payments;</p> <p>(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;</p> <p>(4) All reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.</p> <p>(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 <a href="#">section 109.85 of the Revised Code</a>, 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 to 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 <a href="#">section 109.85 of the Revised Code</a>. 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 <a href="#">section 109.85 of the Revised Code</a>.</p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>CREDIT(S)</p> <p><a href="#">(2013 H 59, eff. 9-29-13)</a></p> |
|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                 | None found.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                 | <p><b>OH ST § 124.01 - Definitions</b></p> <p>OH ST § 124.01</p> <p>Except as otherwise provided in this chapter, as used in this chapter:</p> <p>(A) "Civil service" includes all offices and positions of trust or employment in the service of the state and in the service of the counties, cities, city health districts, general health districts, and city school districts of the state.</p> <p>(B) "State service" includes all offices and positions in the service of the state and the counties and general health districts of the state. "State service" does not include offices and positions in the service of the cities, city health districts, and city school districts of the state.</p> <p>(C) "Classified service" means the competitive classified civil service of the state, the several counties, cities, city health districts, general health districts, and city school districts of the state, and civil service townships.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

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|                 | <p>(D) "Appointing authority" means the officer, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, board, or institution.</p> <p>(E) "Commission" means the municipal civil service commission of any city, except that, when in reference to the commission that serves a city school district, "commission" means the civil service commission determined under <a href="#">section 124.011 of the Revised Code</a>.</p> <p>(F) "Employee" means any person holding a position subject to appointment, removal, promotion, or reduction by an appointing officer. "Employee" does not include an officer, employee, or governor-appointed director of the nonprofit corporation formed under <a href="#">section 187.01 of the Revised Code</a>.</p> <p>(G) "Civil service township" means any township with a population of ten thousand or more persons residing within the township and outside any municipal corporation, which has a police or fire department of ten or more full-time paid employees and which has a civil service commission established under division (B) of <a href="#">section 124.40 of the Revised Code</a>.</p> <p>(H) "Flexible hours employee" means an employee who may work more or less than eight hours on any given day so long as the employee works forty hours in the same week.</p> <p>(I) "Classification series" means any group of classification titles that have the identical name but different numerical designations, or identical titles except for designated levels of supervision, except for those classification series established by the director of administrative services in accordance with division (A) of <a href="#">section 124.14 of the Revised Code</a>.</p> <p>(J) "Classification change" means a change in an employee's classification in the job classification plan.</p> <p>(K) "Service of the state" or "civil service of the state" includes all offices and positions of trust or employment with the government of the state. "Service of the state" and "civil service of the state" do not include offices and positions of trust or employment with state-supported colleges and universities, counties, cities, city health districts, city school districts, general health districts, or civil service townships of the state, or with the nonprofit corporation formed under <a href="#">section 187.01 of the Revised Code</a>.</p> <p> <b>History:</b> GC §§ 486-1, 486-1a; 103 v 119 (131), 698; 106 v 400; Bureau of Code Revision, <a href="#">RC § 143.01</a>, 10-1-53; 128 v 1049 (Eff 11-2-59); 132 v S 271 (Eff 12-13-67); <a href="#">RC § 124.01</a>, 135 v S 174 (Eff 12-4-73); 135 v H 513 (Eff 8-9-74); 137 v S 291 (Eff 8-29-78); 139 v S 118 (Eff 4-26-82); 140 v S 137. Eff 6-20-83; <a href="#">151 v H 187</a>, § 1, eff. 7-1-07; <a href="#">2011 HB 1, § 1</a>, eff. Feb. 18, 2011.</p> <p><b>OH ST 124.341 - Employee may report violation or misuse; disciplinary actions restricted</b></p> <p><b>(A)</b> If an employee in the classified or unclassified civil service becomes aware in the course of employment of a violation of state or federal statutes, rules, or regulations or the misuse of public resources, and the employee's supervisor or appointing authority has authority to correct the violation or misuse, the employee may file a written report identifying the violation or misuse with the supervisor or appointing authority. In addition to or instead of filing a written report with the supervisor or appointing authority, the employee may file a written report with the office of internal audit created under <a href="#">section 126.45 of the Revised Code</a> or file a complaint with the auditor of state's fraud-reporting system under <a href="#">section 117.103 of the Revised Code</a>.</p> <p>If the employee reasonably believes that a violation or misuse of public resources is a criminal offense, the employee, in addition to or instead of filing a written report or complaint with the supervisor, appointing authority, the office of internal audit, or the auditor of state's fraud-reporting system, may report it to a prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation, to a peace officer, as defined in <a href="#">section 2935.01 of the Revised Code</a>, or, if the violation or misuse of public resources is within the jurisdiction of the inspector general, to the inspector general in accordance with <a href="#">section 121.46 of the Revised Code</a>. In addition to that report, if the employee reasonably believes the violation or misuse is also a violation of Chapter 102., <a href="#">section 2921.42</a>, or <a href="#">section 2921.43 of the Revised Code</a>, the employee may report it to the appropriate ethics commission.</p> <p><b>(B)</b> Except as otherwise provided in division (C) of this section, no officer or employee in the classified or unclassified civil service shall take any disciplinary action against an employee in the classified or unclassified civil service for making any report or filing a complaint as authorized by division (A) of this section, including, without limitation, doing any of the following:</p> <ol style="list-style-type: none"><li>(1) Removing or suspending the employee from employment;</li><li>(2) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;</li><li>(3) Transferring or reassigning the employee;</li></ol> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p>(4) Denying the employee promotion that otherwise would have been received;</p> <p>(5) Reducing the employee in pay or position.</p> <p>(C) An employee in the classified or unclassified civil service shall make a reasonable effort to determine the accuracy of any information reported under division (A) of this section. The employee is subject to disciplinary action, including suspension or removal, as determined by the employee's appointing authority, for purposely, knowingly, or recklessly reporting false information under division (A) of this section.</p> <p>(D) If an appointing authority takes any disciplinary or retaliatory action against a classified or unclassified employee as a result of the employee's having filed a report or complaint under division (A) of this section, the employee's sole and exclusive remedy, notwithstanding any other provision of law, is to file an appeal with the state personnel board of review within thirty days after receiving actual notice of the appointing authority's action. If the employee files such an appeal, the board shall immediately notify the employee's appointing authority and shall hear the appeal. The board may affirm or disaffirm the action of the appointing authority or may issue any other order as is appropriate. The order of the board is appealable in accordance with Chapter 119. of the Revised Code.</p> <p>(E) As used in this section:</p> <p>(1) "Purposely," "knowingly," and "recklessly" have the same meanings as in <a href="#">section 2901.22 of the Revised Code</a>.</p> <p>(2) "Appropriate ethics commission" has the same meaning as in <a href="#">section 102.01 of the Revised Code</a>.</p> <p>(3) "Inspector general" means the inspector general appointed under <a href="#">section 121.48 of the Revised Code</a>.</p> <p> <b>History:</b> 141 v H 300 (Eff 9-17-86); 143 v H 588. Eff 10-31-90; <a href="#">151 v H 187</a>, § 1, eff. 7-1-07; <a href="#">152 v H 166</a>, § 1, eff. 2-14-08; <a href="#">2012 HB 66, § 1</a>, eff. May 4, 2012; <a href="#">2013 HB 59, § 101</a>.01, eff. Sept. 29, 2013.</p> <p><b>OH ST 4113.51 - Definitions</b></p> <p>As used in <a href="#">sections 4113.51</a> to <a href="#">4113.53 of the Revised Code</a>:</p> <p>(A) "Employee" means any person who performs a service for wages or other remuneration for an employer.</p> <p>(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.</p> <p>(C) "Person" has the same meaning as in <a href="#">section 1.59 of the Revised Code</a> and also includes a public agency or any other legal entity.</p> <p>(D) "Peace officer" has the same meaning as in <a href="#">section 2935.01 of the Revised Code</a>.</p> <p>(E) "Political subdivision" has the same meaning as in division (F) of <a href="#">section 2744.01 of the Revised Code</a>.</p> <p>(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.</p> <p>(G) "Inspector general" means the inspector general appointed under <a href="#">section 121.48 of the Revised Code</a>.</p> <p><b>History:</b> 142 v H 406 (Eff 6-29-88); 143 v H 588. Eff 10-31-90.</p> <p><b>OH ST 4113.52 - Right of employee to report violation of law by employer or fellow employee</b></p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(A) (1) (a) If an employee becomes aware in the course of the employee's employment of a violation of any state or federal statute or any ordinance or regulation of a political subdivision that the employee's employer has authority to correct, and the employee 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 employee orally shall notify the employee's supervisor or other responsible officer of the employee'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 employee 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, 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.</p> <p>(b) If an employee makes a report under division (A)(1)(a) 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 employee, 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.</p> <p>(2) If an employee becomes aware in the course of the employee's employment of a violation of chapter 3704., 3734., 6109., or 6111. of the Revised Code that is a criminal offense, the employee 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.</p> <p>(3) If an employee becomes aware in the course of the employee'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 employee's employer and the employee 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 employee orally shall notify the employee's supervisor or other responsible officer of the employee'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.</p> <p>(B) Except as otherwise provided in division (C) of this section, no employer shall take any disciplinary or retaliatory action against an employee for making any report authorized by division (A)(1) or (2) of this section, or as a result of the employee'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 an employee for making any report authorized by division (A)(3) of this section if the employee made a reasonable and good faith effort to determine the accuracy of any information so reported, or as a result of the employee'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:</p> <p>(1) Removing or suspending the employee from employment;</p> <p>(2) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;</p> <p>(3) Transferring or reassigning the employee;</p> <p>(4) Denying the employee a promotion that otherwise would have been received;</p> <p>(5) Reducing the employee in pay or position.</p> <p>(C) An employee 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 employee who makes a report under either division (A)(1) or (2) of this section.</p> <p>(D) If an employer takes any disciplinary or retaliatory action against an employee as a result of the employee's having filed a report under division (A) of this section, the employee 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 an employee as a remedy for any disciplinary or retaliatory action taken by an appointing authority against the employee as a result of the employee's having filed a report under division (A) of <a href="#">section 124.341 [124.34.1] of the Revised Code</a>.</p> |

| State /Citation                                          | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                                                          | <p>(E) The court, in rendering a judgment for the employee in an action brought pursuant to division (D) of this section, may order, as it determines appropriate, reinstatement of the employee to the same position that the employee 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 employee who brought the action prevails in the action, may award the prevailing employee 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 <a href="#">section 1343.03 of the Revised Code</a>.</p> <p>(F) Any report filed with the inspector general under this section shall be filed as a complaint in accordance with <a href="#">section 121.46 of the Revised Code</a>.</p> <p>(G) As used in this section:</p> <p>(1) "Contribution" has the same meaning as in <a href="#">section 3517.01 of the Revised Code</a>.</p> <p>(2) "Improper solicitation for a contribution" means a solicitation for a contribution that satisfies all of the following:</p> <p>(a) The solicitation violates division (B), (C), or (D) of <a href="#">section 3517.092 [3517.09.2] of the Revised Code</a>;</p> <p>(b) The solicitation is made in person by a public official or by an employee who has a supervisory role within the public office;</p> <p>(c) The public official or employee knowingly made the solicitation, and the solicitation violates division (B), (C), or (D) of <a href="#">section 3517.092 [3517.09.2] of the Revised Code</a>;</p> <p>(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.</p> <p><b>History:</b> 142 v H 406 (Eff 6-29-88); 143 v H 588 (Eff 10-31-90); <a href="#">146 v H 350</a> (Eff 1-27-97); <a href="#">149 v S 108</a>, § 2.01. Eff 7-6-2001; <a href="#">151 v H 3</a>, § 1, eff. 5-2-06.</p> |
| <a href="#">Oklahoma/</a><br>63 Okl. St. § 5053 et. seq. | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://www.okhca.org/about.aspx?id=226">https://www.okhca.org/about.aspx?id=226</a><br/><a href="https://www.oag.ok.gov/medicaid-fraud-control-unit">https://www.oag.ok.gov/medicaid-fraud-control-unit</a></p> <p>OK ST T. 63 § 5053<br/>"Oklahoma Medicaid False Claims Act".</p> <p><b><i>OK ST T. 63 § 5054</i></b><br/><b>63 Okl.St.Ann. § 5054</b><br/><b>§ 5054. State Medicaid program--Administrative sanctions</b><br/><b><i>Currentness</i></b><br/><b>A. The Oklahoma Health Care Authority may administer administrative sanctions to Medicaid recipients who abuse the state Medicaid program.</b><br/><b>B. Administrative sanctions shall not be administered by the Oklahoma Health Care Authority until notice and hearing have been provided to the Medicaid recipient.</b><br/><b>C. For purposes of this section, “abuse” means practices that result in reimbursement for services that are not medically necessary, including reimbursement for a gross overutilization of services.</b><br/><b>Credits</b><br/><b><i>Laws 2011, c. 255, § 2, eff. Nov. 1, 2011.</i></b></p> <p>OK ST T. 63 § 5053.1 -Definitions--Civil penalty for false or fraudulent claims</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

| State /Citation                                                         | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            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| 56 Okl. St. § 1001 et seq.<br>Oklahoma Medicaid Program Integrity Act". | <p>A. For purposes of this section:</p> <p>1. “Claim”:</p> <p>a. means any request or demand for money or property, whether under a contract or otherwise and whether or not the state has title to the money or property, that:</p> <p>(1) is presented to an officer, employee or agent of the state, or</p> <p>(2) 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 this state:</p> <p>(a) provides or has provided any portion of the money or property requested or demanded, or</p> <p>(b) will reimburse such contractor, grantee or other recipient for any portion of the money or property which is requested or demanded; and</p> <p>b. shall not include requests or demands for money or property that the government has paid to an individual as compensation for state employment or as an income subsidy with no restrictions on the individual's use of the money or property;</p> <p>2. “Knowing” and “knowingly” mean that a person, with respect to information:</p> <p>a. has actual knowledge of the information,</p> <p>b. acts in deliberate ignorance of the truth or falsity of the information, or</p> <p>c. acts in reckless disregard of the truth or falsity of the information.</p> <p>No proof of specific intent to defraud is required;</p> <p>3. “Material” means having a natural tendency to influence or be capable of influencing the payment or receipt of money or property; and</p> <p>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 the retention of any overpayment.</p> <p>B. Any person who:</p> <p>1. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;</p> <p>2. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;</p> <p>3. Conspires to commit a violation of the Oklahoma Medicaid False Claims Act;</p> <p>4. 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 such money or property;</p> <p>5. 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;</p> <p>6. Knowingly buys or receives as a pledge of an obligation or debt, public property from an officer or employee of the state who lawfully may not sell or pledge property; or</p> <p>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 knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state;</p> <p>is liable to the State of Oklahoma for a civil penalty consistent with the civil penalties provision of the Federal False Claims Act, <a href="#">31 U.S.C. 3729(a)</a>, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (<a href="#">28 U.S.C. 2461</a> note; <a href="#">Public Law 101-410</a>), and as further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of <a href="#">Public Law 114-74</a>), plus three times the amount of damages which the state sustains because of the act of that person.</p> <p>C. If the court finds that:</p> <p>1. The person committing the violation in subsection B of this section furnished officials of this state responsible for investigating false claims violations with all information known to such person about the violation within thirty (30) days after the date on which the defendant first obtained the information;</p> <p>2. The person fully cooperated with any state investigation of the violation; and</p> <p>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,</p> <p>the court may assess not less than two times the amount of damages which the state sustains because of the act of the person.</p> <p>D. A person violating subsection B of this section shall also be liable to this state for the costs of a civil action brought to recover any such penalty or damages.</p> <p>E. Any information furnished pursuant to subsections A through D of this section shall be exempt from disclosure under the Oklahoma Open Records Act<sup><a href="#">L</a></sup>.</p> <p>F. This section does not apply to claims, records or statements under the Oklahoma Tax Code<sup><a href="#">2</a></sup>.</p> <p><b>Credits</b></p> <p><a href="#">Laws 2007, c. 137, § 2, eff. Nov. 1, 2007; Laws 2016, c. 44, § 1, eff. Nov. 1, 2016; Laws 2017, c. 86, § 1, eff. Nov. 1, 2017.</a></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                 | <p>56 Okl. St. § 1001 - <b>Short Title</b></p> <p>This act shall be known and may be cited as the "<b>Oklahoma Medicaid Program Integrity Act</b>".</p> <p>56 Okl. St. § 1002 - <b>Definitions</b></p> <p>As used in the Oklahoma Medicaid Program Integrity Act:</p> <p>1. "Authority" means the Oklahoma Health Care Authority;</p> <p>2. "Attorney General" means the Attorney General of this state, his employees or his authorized representatives;</p> <p>3. "Claim" means a communication, including written, electronic, or magnetic, which is utilized to identify a good, item, or service as reimbursable pursuant to the Oklahoma Medicaid Program, or which states income or expense and is or may be used to determine a rate of payment pursuant to the Oklahoma Medicaid Program; and any application for payment by any person from the Oklahoma Medicaid Program or its fiscal agents for each good or service purported by any person to have been provided by any person to any Medicaid recipient;</p> <p>4. "Fiscal agents" means any individual, firm, corporation, professional association, partnership, organization, or other legal entity which, through a contractual relationship with the Oklahoma Health Care Authority and, thereby, the State of Oklahoma, receives, processes, and pays claims under the Oklahoma Medicaid Program;</p> <p>5. "Kickback" means a return in any form by any individual, company, corporation, partnership, or association of a part of an expenditure made by a provider:</p> <p>    a. to the same provider,</p> <p>    b. to an entity controlled by the provider or,</p> <p>    c. to an entity which the provider intends to benefit whenever such expenditure is reimbursed, or reimbursable, or claimed by a provider as being reimbursable by the Oklahoma Medicaid Program and when the sum or value returned is not credited to the benefit of the Oklahoma Medicaid Program;</p> <p>6. "Medicaid recipient" means any individual in whose behalf any person claimed or received any payment or payments from the Oklahoma Medicaid Program or its fiscal agents, whether or not any such individual was eligible for benefits under the Oklahoma Medicaid Program;</p> <p>7. "Oklahoma Medicaid Program" means the state program administered by the Oklahoma Health Care Authority pursuant to Title XIX of the federal Social Security Act, which provides for payments for medical goods or services on behalf of indigent families with dependent children and of aged, blind, or disabled individuals whose income and resources are insufficient to meet the cost of necessary medical services;</p> <p>8. "Person" means any Medicaid provider of goods or services or any employee of such provider, whether that provider is an individual, individual medical vendor, firm, corporation, professional association, partnership, organization, or other legal entity under the Oklahoma Medicaid Program, or any individual, individual medical vendor, firm, corporation, professional association, partnership, organization, other legal entity, or any employee of such who is not a provider under the Oklahoma Medicaid Program but who provides goods or services to a provider under the Oklahoma Medicaid Program for which the provider submits claims to the Oklahoma Medicaid Program or its fiscal agents;</p> <p>9. "Provider" means any person who has applied to participate or who participates in the Oklahoma Medicaid Program as a supplier of a good or a service;</p> <p>10. "Records" means all medical, professional, or business records or documents relating to the treatment or care of any recipient, or to a good or a service provided to any such recipient, or to rates or amounts paid or</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>claimed for such a good or a service including but not limited to records of non-Medicaid goods or services to verify rates or amounts; and any records required to be kept by the Oklahoma Health Care Authority to be kept by any person; and</p> <p>11. "Sign" means to affix a signature directly or indirectly by means of handwriting, typewriter, signature stamp, computer impulse, or other means recognized by Oklahoma Law.</p> <p>56 Okl. St. § 1005 - <b>Acts Deemed Unlawful</b></p> <p><b>A.</b> It shall be unlawful for any person to willfully and knowingly:</p> <p>1. Make or cause to be made a claim, knowing the claim to be false, in whole or in part, by commission or omission;</p> <p>2. Make or cause to be made a statement or representation for use in obtaining or seeking to obtain authorization to provide a good or a service knowing the statement or representation to be false, in whole or in part, by commission or omission;</p> <p>3. Make or cause to be made a statement or representation for use by another in obtaining a good or a service under the Oklahoma Medicaid Program, knowing the statement or representation to be false, in whole or in part, by commission or omission;</p> <p>4. Make or cause to be made a statement or representation for use in qualifying as a provider of a good or a service under the Oklahoma Medicaid Program, knowing the statement or representation to be false, in whole or in part, by commission or omission;</p> <p>5. Charge any recipient or person acting on behalf of a recipient, money or other consideration in addition to or in excess of rates of remuneration established under the Oklahoma Medicaid Program;</p> <p>6. Solicit or accept a benefit, pecuniary benefit, or kickback in connection with goods or services paid or claimed by a provider to be payable by the Oklahoma Medicaid Program; or</p> <p>7. Having submitted a claim for or received payment for a good or a service under the Oklahoma Medicaid Program, fail to maintain or destroy such records as required by law or the rules of the Oklahoma Health Care Authority for a period of at least six (6) years following the date on which payment was received.</p> <p><b>B.</b> For the purposes of this section, a person shall be deemed to have made or caused to be made a claim, statement, or representation if the person:</p> <p>1. Had the authority or responsibility to make the claim, statement, or representation, to supervise those who made the claim, statement, or representation, or to authorize the making of the claim, statement, or representation, whether by operation of law, business or professional practice, or office procedure; and</p> <p>2. Exercised such authority or responsibility or failed to exercise such authority or responsibility and as a direct or indirect result, the false statement was made.</p> <p><b>C.</b> The provisions of this section shall not be construed to prohibit any payment, business arrangement or payment practice not prohibited by <a href="#">42 U.S.C., Section 1320a-7b</a>(b) or any regulations promulgated pursuant thereto or to prohibit any payment, business arrangement or payment practice not prohibited by <a href="#">Section 1-742 of Title 63 of the Oklahoma Statutes</a>.</p> <p><b>D.</b> For the purposes of this section, a person shall be deemed to have known that a claim, statement, or representation was false if the person knew, or by virtue of the person's position, authority or responsibility, had reason to know, of the falsity of the claim, statement or representation.</p> <p><b>E.</b> Any employee of the State Department of Health, the Department of Human Services or the Oklahoma Health Care Authority who knowingly or willfully fails to promptly report a violation of the Oklahoma Medicaid Program, subject to the provisions of this section, to the chief administrative officer of such agency or the State Attorney General shall, upon conviction thereof, be guilty of a misdemeanor.</p> <p>56 Okl. St. § 1005.1 - <b>Providing False or Misleading Eligibility Information--Fraudulently Obtaining or Receiving Assistance--Penalties</b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>A.</b> As used in this section:</p> <p>1. "Administrative sanction" means the court may enter an order making an individual who violates a provision of this section ineligible for assistance for a specified period of time. Such order shall be communicated to the Oklahoma Health Care Authority Legal Division; and</p> <p>2. "Insure Oklahoma" means the program administered by the Oklahoma Health Care Authority pursuant to <a href="#">Sections 1010.1</a> through <a href="#">1010.13 of Title 56 of the Oklahoma Statutes</a>.</p> <p><b>B.</b> Any individual who:</p> <p>1. Obtains or attempts to obtain, or aids, abets or assists any individual to obtain, by means of a false statement or representation, or by false impersonation, or by a fictitious transfer, conveyance or encumbrance of property or income, or by a knowing and willful failure to report to the Department of Human Services or the Oklahoma Health Care Authority income, personal property, real property, household members, or other material eligibility factors at the time of application or during the receipt of assistance, or by other fraudulent device, assistance to which an applicant is not entitled or assistance greater than that to which an applicant is justly entitled shall be guilty of a misdemeanor or a felony;</p> <p>2. By sale, barter, purchase, theft, acquisition, possession or use of any medical identification card or any other device authorizing participation in the Oklahoma Medicaid Program, knowingly obtains, aids, abets or assists any individual to obtain or attempt to obtain assistance to which an individual is not entitled shall be guilty of a misdemeanor or a felony; or</p> <p>3. Attempts to obtain Medicaid or Insure Oklahoma benefits by omitting income, personal property, household members, or other material eligibility factors shall, upon conviction, be guilty of a misdemeanor punishable by either a fine of three times the amount of assistance, or up to three (3) months in the county jail. In addition, the individual may also be punished by an administrative sanction regarding Medicaid benefits. The court shall have discretion in determining penalties.</p> <p><b>C.</b> If the acts in either paragraph 1 or 2 of subsection B of this section or both paragraphs 1 and 2 of subsection B of this section cause the Oklahoma Health Care Authority to determine that an individual or family is eligible for Medicaid or the Insure Oklahoma program and the aggregate amount of assistance paid on behalf of the individual or individuals is less than Five Thousand Dollars (\$ 5,000.00), the penalty, upon conviction, shall be a misdemeanor punishable by fine or imprisonment, or both a fine and imprisonment for three (3) months or an administrative sanction regarding Medicaid benefits in the discretion of the court. If the acts in paragraph 1 or 2 of subsection B of this section or both paragraphs 1 and 2 of subsection B of this section cause the Oklahoma Health Care Authority to determine an individual or family eligible for Medicaid or the Insure Oklahoma program and the aggregate amount of assistance paid on behalf of the individual or individuals is equal to or greater than Five Thousand Dollars (\$ 5,000.00), the penalty, upon conviction, shall be a felony punishable by fine or imprisonment or both a fine and imprisonment for not more than five (5) years or an administrative sanction regarding Medicaid benefits in the discretion of the court.</p> <p> <b>History:</b> <a href="#">Laws 2011, ch. 134</a> (HB 1736), § 2, eff. Nov. 1, 2011.</p> <p>56 Okl. St. § 1006 - <b>Penalty for Medicaid Fraud</b></p> <p><b>A.</b> Any person found to have committed any violation of paragraphs 1 through 6 of subsection A of Section 1005 of this title shall be deemed guilty of <b>Medicaid fraud</b>.</p> <p><b>B. 1.</b> Any person committing <b>Medicaid fraud</b> where the aggregate amount of payments illegally claimed or received is Two Thousand Five Hundred Dollars (\$ 2,500.00) or more shall be guilty of a felony, and upon conviction thereof shall pay a fine of not more than three times the amount of payments illegally claimed or received or Ten Thousand Dollars (\$ 10,000.00) whichever is greater, or be imprisoned for not more than three (3) years, or both such fine and imprisonment.</p> <p>2. Any person committing <b>Medicaid fraud</b> where the aggregate amount of payments illegally claimed or received is less than Two Thousand Five Hundred Dollars (\$ 2,500.00) shall be guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than three times the amount of payments illegally claimed or received or One Thousand Dollars (\$ 1,000.00) whichever is greater, or imprisoned for not more than one (1) year, or both such fine and imprisonment.</p> <p>Any person who violates paragraph 7 of subsection A of Section 1005 of this title shall be guilty of a felony.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>56 Okl. St. § 1007 - <b>Liability for Additional Penalties</b></p> <p><b>A.</b> Any person who receives payment for furnishing goods or services under the Oklahoma Medicaid Program, which the person is not entitled to receive by reason of offenses under paragraphs 1 through 6 of subsection A of Section 1005 of this title, shall, in addition to any other penalties provided by law, be liable for:</p> <p>1. Full restitution to the Oklahoma Health Care Authority of all funds or payments received in violation of the Oklahoma Medicaid Program Integrity Act which shall be returned to the Authority for deposit to the Oklahoma Health Care Authority Medicaid Program Fund, created in Section 6 of this act;</p> <p>2. Payment of interest on the amount of the excess payment at the maximum legal rate in effect on the date the payment was made to the person for the period from the date upon which payment was made to the date upon which the repayment is made to the Authority. All such payments shall be deposited in the Oklahoma Health Care Authority Medicaid Program Fund, created in Section 6 of this act; and</p> <p>3. The cost of investigation, litigation, and attorney fees, which shall be deposited to the General Revenue Fund.</p> <p><b>B. 1.</b> In addition to the penalties imposed by paragraphs 1, 2 and 3 of subsection A of this section, any person who receives payment for furnishing goods or services under the Oklahoma Medicaid Program, which the person is not entitled to receive by reason of violation of paragraphs 1 through 6 of subsection A of Section 1005 of this title, shall be liable for one of the following penalties:</p> <p>a. a civil penalty of two (2) times the amount of restitution and interest thereon from date of judgment, which shall be deposited to the General Revenue Fund, or</p> <p>b. a civil penalty in the sum of Two Thousand Dollars (\$ 2,000.00) and interest thereon from date of judgment for each false or fraudulent claim, statement, or representation submitted for providing goods or services, which shall be deposited to the General Revenue Fund.</p> <p>2. A criminal action need not be brought against the person before civil liability attaches under this section.</p> <p><b>C.</b> In addition to the sanctions provided by the Oklahoma Medicaid Program Integrity Act, the Authority may, upon the conviction of or the entry of an administrative, civil or criminal judgment against any person wherein Medicaid fraud on the person's part is involved, suspend the provider agreement between the Authority and the person and stop reimbursement to the person for goods or services claimed for a period of up to five (5) years from the date of final adjudication of the matter.</p> |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>63 Okl.St.Ann. § 5053.2</b><br/><b>§ 5053.2. Civil actions by Attorney General or individual persons authorized--Complaint procedure</b></p> <p>A. The Attorney General shall diligently investigate a violation under the Oklahoma Medicaid False Claims Act. If the Attorney General finds that a person has violated or is violating the Oklahoma Medicaid False Claims Act, the Attorney General may bring a civil action under this section against the person.</p> <p>B. 1. A person may bring a civil action for a violation of the Oklahoma Medicaid False Claims Act for the person and for this 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 state the reasons for consenting.</p> <p>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 pursuant to <a href="#">Section 2004 of Title 12 of the Oklahoma Statutes</a>. The complaint shall be filed in camera, shall remain under seal for at least sixty (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 sixty (60) days after it receives both the complaint and the material evidence and information.</p> <p>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 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 section until twenty (20) days after the complaint is unsealed and served upon the defendant pursuant to <a href="#">Section 2004 of Title 12 of the Oklahoma Statutes</a>.</p> <p>4. Before the expiration of the sixty-day period or any extensions obtained under paragraph 3 of this subsection, the state shall:</p> <p>a. proceed with the action, in which case the action shall be conducted by the state, or</p> <p>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.</p>                                                                                                                                                                                                                                                                                                                                                                                                                          |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>5. 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.</p> <p>Credits<br/><a href="#"><i>Laws 2007, c. 137, § 3, eff. Nov. 1, 2007; Laws 2016, c. 44, § 2, eff. Nov. 1, 2016.</i></a></p> <p><b>63 Okl.St.Ann. § 5053.3</b><br/><b>§ 5053.3. Actions brought by individuals--Participation by state--Procedure</b></p> <p>A. If the state proceeds with the action pursuant to <a href="#"><i>Section 5053.2</i></a> of this title, 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 this subsection.</p> <p>1. 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.</p> <p>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 under all the circumstances. Upon a showing of good cause, the hearing may be held in camera.</p> <p>3. 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 participation of the person, such as:</p> <p>a. limiting the number of witnesses the person may call,</p> <p>b. limiting the length of the testimony of the witnesses,</p> <p>c. limiting the person's cross-examination of witnesses, or</p> <p>d. otherwise limiting the participation by the person in the litigation.</p> <p>4. 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.</p> <p>B. 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 expense of the state. 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.</p> <p>C. 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 the discovery for a period of not more than sixty (60) 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 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.</p> <p>D. Notwithstanding <a href="#"><i>subsection B of Section 5053.2</i></a> of this title, 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 alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in the proceeding 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 has become final shall be conclusive on all parties to an action under this 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 Oklahoma, if all time for filing the appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.</p> <p>Credits<br/><a href="#"><i>Laws 2007, c. 137, § 4, eff. Nov. 1, 2007; Laws 2016, c. 44, § 3, eff. Nov. 1, 2016.</i></a></p> <p><b>63 Okl.St.Ann. § 5053.4</b><br/><b>§ 5053.4. Actions brought by individuals--Share of proceeds of actions or settlement--Award of expenses, fees, and costs</b><br/><a href="#"><i>Currentness</i></a></p> <p>A. 1. If the state proceeds with an action brought by a person under <a href="#"><i>subsection B of Section 5053.2</i></a> of this title, the person shall, subject to paragraph 2 of this subsection, receive at least fifteen percent (15%) but not more than twenty-five percent (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.</p> <p>2. 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 State Auditor and Inspector 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 ten percent (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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>3. Any payment to a person under paragraph 1 or 2 of this subsection 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 fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.</p> <p>B. If the state does not proceed with an action under <a href="#">Section 5053.2</a> of this title, 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 twenty-five percent (25%) and not more than thirty percent (30%) 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 which 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.</p> <p>C. 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 the Oklahoma Medicaid False Claims Act 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 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 his or her role in the violation of the Oklahoma Medicaid False Claims Act, 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 this state to continue the action, represented by the Office of the Attorney General or its assigns.</p> <p>D. 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 attorney fees and expenses if the defendant prevails in <b>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.</b></p> <p><b>Credits</b><br/><a href="#">Laws 2007, c. 137, § 5, eff. Nov. 1, 2007; Laws 2009, c. 32, § 1, eff. Nov. 1, 2009; Laws 2016, c. 44, § 4, eff. Nov. 1, 2016.</a></p> <p><b>63 Okl.St.Ann. § 5053.5</b><br/><b><i>§ 5053.5. Prohibition of certain individual actions--Dismissal--Liability for expenses or fees--Relief following adverse acts--Statute of limitations</i></b><br/><a href="#">Currentness</a></p> <p>A. In no event may a person bring an action under <a href="#">subsection B of Section 5053.2</a> of this title 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.</p> <p>B. 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 in a criminal, civil or administrative hearing, in which the state or its agent is a party, in a legislative, or State Auditor and Inspector 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. For purposes of this subsection, “original source” means an individual who either:</p> <ol style="list-style-type: none"><li>1. Prior to a public disclosure under subsection B of this section, has voluntarily disclosed to the state the information on which allegations or transactions in a claim are based; or</li><li>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 the Oklahoma Medicaid False Claims Act.</li></ol> <p>C. The state is not liable for expenses which a person incurs in bringing an action under this section.</p> <p>D. In civil actions brought under this section by this state, the provisions of Title 28 of the Oklahoma Statutes shall apply.</p> <p>E. Any employee, contractor or agent shall be entitled to:</p> <ol style="list-style-type: none"><li>1. 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 because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under this act, or other efforts to stop one or more violations of the Oklahoma Medicaid False Claims Act.</li><li>2. Relief which 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 under this section may be brought in the appropriate district court of the State of Oklahoma for the relief provided in this subsection.</li></ol> <p>F. An action under this section shall not be brought more than three (3) years after the date when the retaliation occurred.</p> <p><b>Credits</b><br/><a href="#">Laws 2007, c. 137, § 6, eff. Nov. 1, 2007; Laws 2009, c. 32, § 2, eff. Nov. 1, 2009; Laws 2016, c. 44, § 5, eff. Nov. 1, 2016; Laws 2017, c. 86, § 2, eff. Nov. 1, 2017.</a></p> <p><b>63 Okl.St.Ann. § 5053.6</b><br/><b><i>§ 5053.6. Service of subpoena--Limitation of actions--Burden of proof--Res judicata</i></b><br/><a href="#">Currentness</a></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>A. A subpoena requiring the attendance of a witness at a trial or hearing conducted under the Oklahoma Medicaid False Claims Act may be served at any place in Oklahoma.</p> <p>B. A civil action under <a href="#">Section 5053.2</a> of this title may not be brought:</p> <ol style="list-style-type: none"><li>1. More than six (6) years after the date on which the violation of the Oklahoma Medicaid False Claims Act is committed; or</li><li>2. 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 of Oklahoma charged with responsibility to act in the circumstances, but in no event more than ten (10) years after the date on which the violation is committed, whichever occurs last.</li></ol> <p>C. If the state elects to intervene and proceed with an action brought under <a href="#">Section 5053.2</a> of this title, the state may file its own complaint or amend the complaint of a person who has brought an action under <a href="#">Section 5053.2</a> of this title 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 the person.</p> <p>D. In any action brought under <a href="#">Section 5053.2</a> of this title, this state shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.</p> <p>E. Notwithstanding any other provision of law, a final judgment rendered in favor of this state 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 the Oklahoma Medicaid False Claims Act.</p> <p><b>Credits</b><br/><a href="#">Laws 2007, c. 137, § 7, eff. Nov. 1, 2007; Laws 2016, c. 44, § 6, eff. Nov. 1, 2016.</a></p> <p><b>63 Okl.St.Ann. § 5053.7</b><br/><b>§ 5053.7. Jurisdiction</b><br/><a href="#">Currentness</a></p> <p>A. Any action under <a href="#">Section 5053.2</a> of this title 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 the Oklahoma Medicaid False Claims Act occurred. A summons as required by <a href="#">Section 2004 of Title 12 of the Oklahoma Statutes</a> shall be issued by the appropriate district court and served at any place within or outside the State of Oklahoma.</p> <p>B. The district courts shall have jurisdiction over any action brought under the laws of the 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 the Oklahoma Medicaid False Claims Act.</p> <p><b>Credits</b><br/><a href="#">Laws 2007, c. 137, § 8, eff. Nov. 1, 2007; Laws 2016, c. 44, § 7, eff. Nov. 1, 2016.</a></p> |
|                 | <p><b>Whistle-blower Protections</b></p> <p>63 Okl. St. § 5053.5<br/><b>63 Okl.St.Ann. § 5053.5</b><br/><b>§ 5053.5. Prohibition of certain individual actions--Dismissal--Liability for expenses or fees--Relief following adverse acts--Statute of limitations</b><br/><a href="#">Currentness</a></p> <p>A. In no event may a person bring an action under <a href="#">subsection B of Section 5053.2</a> of this title 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.</p> <p>B. 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 in a criminal, civil or administrative hearing, in which the state or its agent is a party, in a legislative, or State Auditor and Inspector 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. For purposes of this subsection, “original source” means an individual who either:</p> <ol style="list-style-type: none"><li>1. Prior to a public disclosure under subsection B of this section, has voluntarily disclosed to the state the information on which allegations or transactions in a claim are based; or</li><li>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 the Oklahoma Medicaid False Claims Act.</li></ol> <p>C. The state is not liable for expenses which a person incurs in bringing an action under this section.</p> <p>D. In civil actions brought under this section by this state, the provisions of Title 28 of the Oklahoma Statutes shall apply.</p> <p>E. Any employee, contractor or agent shall be entitled to:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



| State /Citation                                                                                                                                                                                                                                                                                           | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                                                                                                                                                                                                                                                                                                           | <p>1. 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 because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under this act, or other efforts to stop one or more violations of the Oklahoma Medicaid False Claims Act.</p> <p>2. Relief which 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 under this section may be brought in the appropriate district court of the State of Oklahoma for the relief provided in this subsection.</p> <p>F. An action under this section shall not be brought more than three (3) years after the date when the retaliation occurred.</p> <p><b>Credits</b><br/><u><a href="#">Laws 2007, c. 137, § 6, eff. Nov. 1, 2007; Laws 2009, c. 32, § 2, eff. Nov. 1, 2009; Laws 2016, c. 44, § 5, eff. Nov. 1, 2016; Laws 2017, c. 86, § 2, eff. Nov. 1, 2017.</a></u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><u><a href="#">Oregon</a></u></p> <p><b>ORS § 180.750 – 785</b></p> <p>ORS 659A.200 – 224<br/>ORS § 659A.230 - 233</p> <p>ORS § 411.670<br/>ORS § 411.675<br/>ORS § 411.690</p> <p>ORS § 165.080</p> <p>ORS § 165.690 to 165.698</p> <p>ORS § 164</p> <p>ORS § 162</p> <p>ORS § 646.505 to 646.656</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b><br/><u><a href="https://www.oregon.gov/oha/HSD/OHP/Tools/Employee%20Education%20about%20False%20Claims%20Recoveries.pdf">https://www.oregon.gov/oha/HSD/OHP/Tools/Employee%20Education%20about%20False%20Claims%20Recoveries.pdf</a></u><br/><u><a href="https://www.doj.state.or.us/consumer-protection/sales-scams-fraud/medicaid-fraud/">https://www.doj.state.or.us/consumer-protection/sales-scams-fraud/medicaid-fraud/</a></u><br/><u><a href="https://www.oregon.gov/dhs/abuse/pages/fraud-reporting.aspx">https://www.oregon.gov/dhs/abuse/pages/fraud-reporting.aspx</a></u></p> <p><b>State Bulletin/Notice - Section 6032 of the Deficit Reduction Act of 2005 – Education About False Claims Recovery</b><br/><u><a href="http://www.oregon.gov/oha/HSD/OHP/Tools/Employee%20Education%20about%20False%20Claims%20Recoveries.pdf">http://www.oregon.gov/oha/HSD/OHP/Tools/Employee%20Education%20about%20False%20Claims%20Recoveries.pdf</a></u></p> <p><b>False Claims - ORS § 180.750 - 785</b><br/><b>ORS § 180.750 - Definitions.</b><br/>As used in ORS 180.750 to 180.785:</p> <p>(1) “Claim” means a request or demand made to a public agency, including a request or demand made pursuant to a contract, that seeks moneys, property, services or benefits that will be provided in whole or in part by a public body, whether directly or through reimbursement of another public agency that provides the moneys, property, services or benefits.</p> <p>(2) “False claim” means a claim that:</p> <p>(a) Contains, or is based on, false or fraudulent information;</p> <p>(b) Contains any statement or representation that is untrue in whole or part; or</p> <p>(c) Omits information that could have a material effect on the value, validity or authenticity of the claim.</p> <p>(3) “Public agency” means:</p> <p>(a) A public body;</p> <p>(b) The United States or a federal agency;</p> <p>(c) A person who contracts with a public body; or</p> <p>(d) A person other than an individual who receives a grant from a public body.</p> <p>(4) “Public body” has the meaning given that term in <u><a href="#">ORS 174.102</a></u>.</p> <p><b>Credits Added by <u><a href="#">Laws 2009, c. 292, § 1, eff. Jan. 1, 2010</a></u>.</b></p> <p><b>ORS § 180.755 - Prohibited acts.</b></p> <p>(1) A person may not:</p> <p>(a) Present for payment or approval, or cause to be presented for payment or approval, a claim that the person knows is a false claim.</p> <p>(b) In the course of presenting a claim for payment or approval, make or use, or cause to be made or used, a record or statement that the person knows to contain, or to be based on, false or fraudulent information.</p> <p>(c) Agree or conspire with other persons to present for payment or approval a claim that the person knows is a false claim.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(d) Deliver, or cause to be delivered, property to a public agency in an amount the person knows is less than the amount for which the person receives a certificate or receipt.</p> <p>(e) Make or deliver a document certifying receipt of property used by a public agency, or intended to be used by a public agency, that the person knows contains false or fraudulent information.</p> <p>(f) Buy property of a public agency from an officer or employee of a public agency if the person knows that the officer or employee is not authorized to sell the property.</p> <p>(g) Receive property of a public agency from an officer or employee of the public agency as a pledge of an obligation or debt if the person knows that the officer or employee is not authorized to pledge the property.</p> <p>(h) Make or use, or cause to be made or used, a false or fraudulent statement to conceal, avoid or decrease an obligation to pay or transmit moneys or property to a public agency if the person knows that the statement is false or fraudulent.</p> <p>(i) Fail to disclose a false claim that benefits the person within a reasonable time after discovering that the false claim has been presented or submitted for payment or approval.</p> <p>(2) For the purposes of this section, a person has knowledge that a claim, record, statement, document or information is false or fraudulent if the person:</p> <p>(a) Has actual knowledge of the false or fraudulent nature of the claim, record, statement, document or information;</p> <p>(b) Acts in deliberate ignorance of the false or fraudulent nature of the claim, record, statement, document or information; or</p> <p>(c) Acts in reckless disregard of the false or fraudulent nature of the claim, record, statement, document or information.</p> <p>(3) In an action under <a href="#">ORS 180.760</a>, the Attorney General need not prove that a person specifically intended to defraud a public agency to establish that a person acted with knowledge as described in subsection (2) of this section.</p> <p><i>Credits</i></p> <p>Added by <a href="#">Laws 2009, c. 292, § 2</a>, eff. Jan. 1, 2010.</p> <p><b>ORS § 180.760 - Civil action for violation; remedies.</b></p> <p><b>Ch. 104 (S.B. No. 311)</b><br/><b>West's No. 95</b><br/>AN ACT Relating to false claims; creating new provisions; and amending ORS 180.760 and 180.765.<br/>Be It Enacted by the People of the State of Oregon:<br/><b><u>SECTION 1.</u></b> ORS 180.760 is amended to read:<br/>&lt;&lt; OR ST 180.760 &gt;&gt;<br/>180.760. (1) The Attorney General may bring a civil action in the name of the State of Oregon against a person who violates ORS 180.755. The Attorney General may bring the action in the Circuit Court for Marion County or in a circuit court in any county in which part of the conduct that constituted the violation took place.<br/>(2) Repayment of or intent to repay any amounts obtained by a person as a result of a violation of ORS 180.755 is not a defense in an action under this section.<br/>(3) The fact that a public agency has not paid any amounts to a person as a result of a violation of ORS 180.755 or has not suffered any injury by reason of a violation of ORS 180.755, is not a defense in an action under this section.<br/>(4)(a) A court shall award to the state all damages arising from a violation of ORS 180.755.<br/>(b) In addition to damages awarded under paragraph (a) of this subsection, the court shall award to the state a penalty equal to the greater of:<br/>(A) An amount not less than \$10,000 and not greater than \$50,000 for each violation; or<br/>(B) An amount equal to twice the amount of damages incurred for each violation.<br/>(c) The court may mitigate an award of a penalty under paragraph (b) of this subsection based on any fine or penalty assessed against the defendant for substantially the same acts or omissions in a judgment under the federal False Claims Act, 31 U.S.C. 3729, et seq., as in effect on January 1, 2010, or under the federal Civil Monetary Penalty Law, 42 U.S.C. 1320a–7a, as in effect on January 1, 2010, that is no longer subject to appeal.<br/>(5) If a court finds that an act or omission of an individual on behalf of a corporation or other legal entity constitutes a violation of ORS 180.755, the court may find that both the individual and the legal entity violated ORS 180.755 and impose a separate penalty under subsection (4) of this section against both the individual and the legal entity.<br/>(6) Notwithstanding subsections (4) and (5) of this section, if the state prevails in an action under this section, the court may not award a penalty under subsection (4) of this section if:<br/>(a) The defendant provided the Attorney General with all information known to the defendant about the violation within 30 days after the defendant first acquired the information;<br/>(b) The defendant fully cooperated with the Attorney General in the investigation of the violation; and<br/>(c) At the time the defendant provided the Attorney General with information about the violation, an investigation, court proceeding or administrative action related to the violation had not been commenced.<br/>(7) For the purpose of determining the amount of damages under this section:</p> |





| State /Citation                    | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 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| ORS Chapter 164<br><br>ORS 164.005 | <p>(a) The value of property, services or benefits obtained by a person who makes a claim may be established based on the market value of property, services or benefits at the time and place of receipt or delivery of the property, services or benefits.</p> <p>(b) If the market value of property, services or benefits at the time and place of receipt or delivery of the property, services or benefits cannot be reasonably ascertained, the value of the property, services or benefits may be established based on the replacement cost of the property, services or benefits.</p> <p>(c) If a written instrument has no readily ascertainable market value, the value of the instrument may be established based on the value determined as provided in ORS 164.115 (2).</p> <p>(d) The Attorney General may establish damages using statistical or sampling methodology, or any other system that reasonably estimates damages incurred, without separately proving the damages incurred from each violation of ORS 180.755.</p> <p>(8) The court may award reasonable attorney fees and costs of investigation, preparation and litigation to the state if the state prevails in an action under this section. The court may award reasonable attorney fees and costs of investigation, preparation and litigation to a defendant who prevails in an action under this section if the court determines that the Attorney General had no objectively reasonable basis for bringing the action or no reasonable basis for appealing an adverse decision of the trial court.</p> <p><b>ORS § 180.765 - Statute of limitation.</b></p> <p>&lt;&lt; OR ST 180.765 &gt;&gt;</p> <p>180.765. An action under ORS 180.760 must be brought within <b>five</b> years after the date that the <b>Attorney General</b> discovers the violation of ORS 180.755. In no event may an action under ORS 180.760 be brought more than 10 years after the date on which the violation is committed.</p> <p><u>SECTION 3.</u> Section 4 of this 2023 Act is added to and made a part of ORS 180.750 to 180.785.</p> <p><u>SECTION 4.</u> (1) While in the possession of the Attorney General, any documentary material, answers to interrogatories and transcripts of oral testimony shall be held in confidence and not be disclosed to any person except:</p> <p>(a) The person providing the material or answers;</p> <p>(b) The representative or attorney of the person providing the material or answers;</p> <p>(c) Persons employed by the Attorney General;</p> <p>(d) Officials of the United States or any state who are authorized to enforce federal or state false claims laws, including the federal False Claims Act, 31 U.S.C. 3729 to 3733, provided that prior to the disclosure the Attorney General shall obtain the written agreement of the officials to abide by the confidentiality restriction of this section; and</p> <p>(e) Other persons authorized in subsection (2) of this section.</p> <p>(2) Documentary material, answers to interrogatories and transcripts of oral testimony in the possession of the Attorney General may be:</p> <p>(a) Used in any investigation conducted pursuant to ORS 180.750 to 180.785 or in any case or proceeding before a court or administrative agency; or</p> <p>(b) Disclosed to any committee or subcommittee of the Legislative Assembly in a manner and for purposes as the Attorney General deems appropriate.</p> <p>(3) Upon completion of a civil action brought under ORS 180.760, the Attorney General shall return any documents, answers and transcripts that have not passed into the control of the court through introduction into the records, to the person who provided the documents, answers or testimony, upon the person's request in writing. If no action in which documents, answers or testimony may be used has been commenced within a reasonable time after completion of the examination or analysis of all documentary material, but in no event later than four years after production of the material, the Attorney General shall, upon written request of the person who produced the material, return all documents, answers and transcripts to the person who provided them.</p> <p><u>SECTION 5.</u> The amendments to ORS 180.765 by section 2 of this 2023 Act apply to claims under ORS 180.760 discovered by the Attorney General on or after the effective date of this 2023 Act.</p> <p>2023 Oregon Laws Ch. 104 (S.B. 311)</p> <p><b>ORS § 180.770 - Estoppel.</b></p> <p>(1) Any judgment that is no longer subject to appeal and that was rendered in favor of the state or of the United States in a criminal proceeding based on conduct that gives rise to an action under <a href="#">ORS 180.760</a>, whether based on a verdict after trial or upon a plea of guilty or nolo contendere, estops a defendant in an action under <a href="#">ORS 180.760</a> from denying the elements of the offense for which the defendant was convicted.</p> <p>(2) A criminal or administrative action need not be brought against a person as a condition to bringing an action against the person under <a href="#">ORS 180.760</a>.</p> <p><b>Credits: Added by <a href="#">Laws 2009, c. 292, § 5, eff. Jan. 1, 2010</a></b></p> |
| ORS 164.015                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   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| ORS Chapter 162<br><br>ORS 162.005 | <p>(1) If it appears to the Attorney General that a person has possession, custody or control of any information, document or other materials that are relevant to an investigation of a violation of <a href="#">ORS 180.755</a>, or that could lead to the discovery of relevant information in an investigation of a violation of <a href="#">ORS 180.755</a>, the Attorney General may cause an investigative demand to be served upon the person. The investigative demand may require the person:</p> <p>(a) To appear and testify under oath at the time and place stated in the investigative demand;</p> <p>(b) To answer written interrogatories; or</p> <p>(c) To produce relevant documentary material or physical evidence for examination at the time and place stated in the investigative demand.</p> <p>(2) An investigative demand under this section shall be served in the manner provided by <a href="#">ORS 646.622</a> and may be enforced in the manner provided by <a href="#">ORS 646.626</a>.</p> <p><b>Credits - Added by <a href="#">Laws 2009, c. 292, § 6</a>, eff. Jan. 1, 2010.</b></p> <p><br/></p> <p>ORS § 180.785 - <b>Remedy not exclusive.</b></p> <p>The remedies provided under <a href="#">ORS 180.760</a> are in addition to any other remedy, civil or criminal, that may be available under any other provision of law. Claims based on remedies available under other provisions of law may be joined in an action under <a href="#">ORS 180.760</a>.</p> <p><b>Credits</b></p> <p>Added by <a href="#">Laws 2009, c. 292, § 8</a>, eff. Jan. 1, 2010.</p> <p><br/></p> <p>ORS 411.670<br/>411.670. Definitions for ORS 411.670, 411.675 and 411.690.<br/>As used in this section and <a href="#">ORS 411.640</a>, <a href="#">411.675</a> and <a href="#">411.690</a>:</p> <p>(1) "Claims for payment" includes bills, invoices, electronic transmissions and any other document requesting money in compensation for or reimbursement of needs which have been furnished to any public assistance or medical assistance recipient.</p> <p>(2) "Need" means any type of care, service, commodity, shelter or living requirement.</p> <p>(3) "Person" includes individuals, corporations, associations, firms, partnerships, governmental subdivisions and agencies and public and private organizations of any character.</p> <p> <b>History:</b> 1983 c.609 § 2; <a href="#">2011 c.720 § 120</a>; <a href="#">2013 c.688 § 55</a>, effective July 29, 2013.</p> <p><br/></p> <p><b>ORS 411.675. Submitting wrongful claim or payment prohibited.</b><br/>A person may not obtain or attempt to obtain, for personal benefit or the benefit of another person, a payment for furnishing any need to or for the benefit of a public assistance or medical assistance recipient by knowingly:</p> <p>(1) Submitting or causing to be submitted to the Department of Human Services or the Oregon Health Authority a false claim for payment;</p> <p>(2) Submitting or causing to be submitted to the department or the authority a claim for payment that already has been submitted for payment unless the claim is clearly labeled as a duplicate;</p> <p>(3) Submitting or causing to be submitted to the department or the authority a claim for payment that is a claim that already has been paid by any source unless clearly labeled as already paid; or</p> <p>(4) Accepting a payment from the department or the authority for the costs of items or services that have not been provided to or for the benefit of a public assistance or medical assistance recipient.</p> <p> <b>History:</b> 1983 c.609 § 3; <a href="#">2011 c.720 § 121</a>; <a href="#">2013 c.688 § 56</a>, effective July 29, 2013, operative January 1, 2014.</p> |
| ORS 162.015                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| ORS 162.055                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| State /Citation   | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| ORS 162.065       | <b>411.690. Liability of person wrongfully receiving payment; amount of recovery.</b><br>(1) A person who accepts from the Department of Human Services or the Oregon Health Authority a payment for furnishing any need to or for the benefit of a public assistance or medical assistance recipient is liable to refund or credit the amount of the payment to the department or the authority if the person has obtained or subsequently obtains from the recipient or from any source any additional payment for furnishing the same need. However, the liability of the person is limited to the lesser of the following amounts:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| ORS 162.075       | <p>(a) The amount of the payment accepted from the department or the authority; or</p> <p>(b) The amount by which the aggregate sum of all payments accepted or received by the person exceeds the maximum amount payable for the need under rules adopted by the department or the authority.</p> <p>(2) Notwithstanding subsection (1) of this section, a person who, after having been afforded an opportunity for a contested case hearing pursuant to ORS chapter 183, is found to have violated <a href="#">ORS 411.675</a> is liable to the department or the authority for treble the amount of the payment received as a result of the violation.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| ORS 162.085       | <p>(3) The department and the authority may prosecute civil actions to recover moneys claimed due under this section and for costs and disbursements incurred in such actions.</p> <p>📌<b>History:</b> 1963 c.609 § 11; 1977 c.669 § 1; 1983 c.609 § 4; <a href="#">2011 c.720 § 122</a>; <a href="#">2013 c.688 § 57</a>, effective July 29, 2013, operative January 1, 2014.</p> <p><b>ORS 165.080. Falsifying business records.</b></p> <p>(1) A person commits the crime of falsifying business records if, with intent to defraud, the person:</p> <p>(a) Makes or causes a false entry in the business records of an enterprise; or</p> <p>(b) Alters, erases, obliterates, deletes, removes or destroys a true entry in the business records of an enterprise; or</p> <p>(c) Fails to make a true entry in the business records of an enterprise in violation of a known duty imposed upon the person by law or by the nature of the position of the person; or</p> <p>(d) Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise.</p> <p>(2) Falsifying business records is a Class A misdemeanor.</p> <p><b>History:</b>1971 c.743 § 163</p> <p>TITLE 16 CRIMES AND PUNISHMENTS<br/>Chapter 165 - Offenses Involving Fraud or Deception<br/>FALSE CLAIMS FOR HEALTH CARE PAYMENTS<br/><b>ORS § 165.690 - Definitions.</b></p> <p>As used in <a href="#">ORS 165.690</a>, <a href="#">165.692</a> and <a href="#">165.694</a>:</p> |
| ORS 646.605 - 656 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| ORS 646.605       | <p>(1) "Claim for health care payment" means any request or demand for a health care payment, whether made in the form of a bill, claim form, cost report, invoice, electronic transmission or any other document. "Claim for health care payment" does not include any statement by a person on an application for coverage under a contract or certificate of health care coverage issued by an insurer, health care service contractor, health maintenance organization or other legal entity that is self-insured and provides health care benefits to its employees.</p> <p>(2) "Health care payment" means money paid in compensation for the delivery of specified health care services, whether under a contract, certificate or policy of insurance, by a health care payor.</p> <p>(3) "Health care payor" means:</p> <p>(a) Any insurance company authorized to provide health insurance in this state;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>(b) A health maintenance organization;</p> <p>(c) A health care service contractor;</p> <p>(d) Any legal entity that is self-insured and provides benefits for health care services to its employees;</p> <p>(e) Any legal entity responsible for handling claims for health care services under a state or federal medical assistance program;</p> <p>(f) The State of Oregon or any local government within this state that makes payments for health care services;</p> <p>(g) Any insurer authorized under ORS chapter 731 to transact workers' compensation or casualty insurance in this state; or</p> <p>(h) Any employer authorized under ORS chapter 656 to self-insure its workers' compensation risk.</p> <p>(4) "Health care services" means any medical or remedial care or service, including supplies delivered in connection with the care or service, that is recognized under state law.</p> <p>(5) "Person" means an individual, corporation, partnership or association that provides health care services or any other form of legal or business entity that provides health care services.</p> <p>History: <a href="#">1995 c.496 § 1</a>; <a href="#">2001 c.556 § 1</a></p> <p><b>ORS 165.692. Making false claim for health care payment.</b></p> <p>A person commits the crime of making a false claim for health care payment when the person:</p> <p>(1) Knowingly makes or causes to be made a claim for health care payment that contains any false statement or false representation of a material fact in order to receive a health care payment; or</p> <p>(2) Knowingly conceals from or fails to disclose to a health care payor the occurrence of any event or the existence of any information with the intent to obtain a health care payment to which the person is not entitled, or to obtain or retain a health care payment in an amount greater than that to which the person is or was entitled.</p> <p>History: <a href="#">1995 c.496 § 2</a></p> <p><b>ORS 165.694. Aggregation of claims.</b></p> <p>(1) Single acts of making a false claim for health care payment may be added together into aggregated counts of making false claims for health care payments if the acts were committed:</p> <p>(a) Against multiple health care payors by similar means within a 30-day period; or</p> <p>(b) Against the same health care payor, or a contractor, or contractors, of the same health care payor, within a 180-day period.</p> <p>(2) The charging instrument must identify those claims that are part of any aggregated counts.</p> <p>History:<a href="#">1995 c.496 § 3</a></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| ORS 646.608     | <p><b>ORS 164.005. Definitions.</b></p> <p>As used in chapter 743, Oregon Laws 1971, unless the context requires otherwise:</p> <p>(1) "Appropriate property of another to oneself or a third person" or "appropriate" means to:</p> <p>(a) Exercise control over property of another, or to aid a third person to exercise control over property of another, permanently or for so extended a period or under such circumstances as to acquire the major portion of the economic value or benefit of such property; or</p> <p>(b) Dispose of the property of another for the benefit of oneself or a third person.</p> <p>(2) "Deprive another of property" or "deprive" means to:</p> <p>(a) Withhold property of another or cause property of another to be withheld from that person permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to that person; or</p> <p>(b) Dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.</p> <p>(3) "Obtain" includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another.</p> <p>(4) "Owner of property taken, obtained or withheld" or "owner" means any person who has a right to possession thereof superior to that of the taker, obtainer or withholder.</p> <p>(5) "Property" means any article, substance or thing of value, including, but not limited to, money, tangible and intangible personal property, real property, choses-in-action, evidence of debt or of contract.</p> <p><b>History:</b> 1971 c.743 § 121</p> <p><b>164.015 "Theft" described.</b></p> <p>A person commits theft when, with intent to deprive another of property or to appropriate property to the person or to a third person, the person:</p> <p>(1) Takes, appropriates, obtains or withholds such property from an owner thereof;</p> <p>(2) Commits theft of property lost, mislaid or delivered by mistake as provided in <a href="#">ORS 164.065</a>;</p> <p>(3) Commits extortion as provided in <a href="#">ORS 164.075</a> by compelling or inducing another person to deliver property;</p> <p>(4) Commits theft by deception as provided in <a href="#">ORS 164.085</a>; or</p> <p>(5) Commits theft by receiving as provided in <a href="#">ORS 164.095</a>.</p> <p> <b>History:</b><br/>1971 c.743 § 123; <a href="#">2007 c.71 § 4Z</a>; <a href="#">2016 c.47 § 7</a>, effective January 1, 2017</p> <p><b>Definitions for ORS 162.005 to 162.425.</b></p> <p>As used in <a href="#">ORS 162.005</a> to <a href="#">162.425</a>, unless the context requires otherwise:</p> <p>(1) "Pecuniary benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary, in the form of money, property, commercial interests or economic gain, but does</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>not include a political campaign contribution reported in accordance with ORS chapter 260.</p> <p>(2) "Public servant" means:</p> <p>(a) A public official as defined in <a href="#">ORS 244.020</a>;</p> <p>(b) A person serving as an advisor, consultant or assistant at the request or direction of the state, any political subdivision thereof or of any governmental instrumentality within the state;</p> <p>(c) A person nominated, elected or appointed to become a public servant, although not yet occupying the position; and</p> <p>(d) Jurors.</p> <p> <b>History:</b> 1971 c.743 § 178; <a href="#">2007 c.865 § 22</a></p> <p><b>ORS 162.015. Bribe giving.</b></p> <p>(1) A person commits the crime of bribe giving if the person offers, confers or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision or exercise of discretion in an official capacity.</p> <p>(2) Bribe giving is a Class B felony.</p> <p><b>History:</b> 1971 c.743 § 179</p> <p><b>162.055 Definitions for ORS 162.055 to 162.425.</b></p> <p>As used in <a href="#">ORS 162.055</a> to <a href="#">162.425</a> and <a href="#">162.465</a>, unless the context requires otherwise:</p> <p>(1) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.</p> <p>(2) "Material" means that which could have affected the course or outcome of any proceeding or transaction. Whether a false statement is "material" in a given factual situation is a question of law.</p> <p>(3) "Statement" means any representation of fact and includes a representation of opinion, belief or other state of mind where the representation clearly relates to state of mind apart from or in addition to any facts which are the subject of the representation.</p> <p>(4) "Sworn statement" means any statement that attests to the truth of what is stated and that is knowingly given under any form of oath or affirmation or by declaration under penalty of perjury as described in <a href="#">ORCP 1</a> E.</p> <p> (5) "Unsworn declaration" has the meaning given that term in <a href="#">ORS 194.805</a>.</p> <p> <b>History:</b> 1971 c.743 § 182; 1981 c.892 § 90; <a href="#">2003 c.194 § 4</a>; <a href="#">2013 c.218 § 18</a>, effective January 1, 2014.</p> <p><b>ORS 162.065. Perjury.</b></p> <p>(1) A person commits the crime of perjury if the person makes a false sworn statement or a false unsworn declaration in regard to a material issue, knowing it to be false.</p> <p>(2) Perjury is a Class C felony.</p> <p> <b>History:</b> 1971 c.743 § 183; <a href="#">2013 c.218 § 19</a>, effective January 1, 2014.</p> <p><b>ORS 162.075. False swearing.</b></p> <p>(1) A person commits the crime of false swearing if the person makes a false sworn statement or a false unsworn declaration, knowing it to be false.</p> <p>(2) False swearing is a Class A misdemeanor.</p> <p> <b>History:</b> 1971 c.743 § 184; <a href="#">2013 c.218 § 20</a>, effective January 1, 2014.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>ORS <b>162.085. Unsworn falsification.</b></p> <p>(1) A person commits the crime of unsworn falsification if the person knowingly makes any false written statement to a public servant in connection with an application for any benefit.</p> <p>(2) Unsworn falsification is a Class B misdemeanor.</p> <p><b>History:</b> 1971 c.743 § 185</p> <p><b>Unlawful Trade Practices</b></p> <p><b>ORS § 646.605. Definitions for ORS 646.605 to 646.652.</b></p> <p>As used in <a href="#">ORS 336.184</a> and 646.605 to <a href="#">646.652</a>:</p> <p>(1) “Appropriate court” means the circuit court of a county:</p> <p>(a) Where one or more of the defendants reside;</p> <p>(b) Where one or more of the defendants maintain a principal place of business;</p> <p>(c) Where one or more of the defendants are alleged to have committed an act prohibited by <a href="#">ORS 336.184</a> and 646.605 to <a href="#">646.652</a>; or</p> <p>(d) With the defendant's consent, where the prosecuting attorney maintains an office.</p> <p>(2) “Documentary material” means the original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated.</p> <p>(3) “Examination” of documentary material includes inspection, study or copying of any documentary material, and taking testimony under oath or acknowledgment regarding any documentary material or copy thereof.</p> <p>(4) “Person” means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations and any other legal entity except bodies or officers acting under statutory authority of this state or the United States.</p> <p>(5) “Prosecuting attorney” means the Attorney General or the district attorney of any county in which a violation of <a href="#">ORS 336.184</a> and 646.605 to <a href="#">646.652</a> is alleged to have occurred.</p> <p>(6)(a) “Real estate, goods or services” means those that are or may be obtained primarily for personal, family or household purposes, or that are or may be obtained for any purposes as a result of a telephone solicitation, and includes loans and extensions of credit, and franchises, distributorships and other similar business opportunities, but does not include insurance.</p> <p>(b) Notwithstanding paragraph (a) of this subsection:</p> <p>(A) “Real estate” does not cover conduct covered by ORS chapter 90.</p> <p>(B) “Loans and extensions of credit” does not include transactions involving a pawnbroker, as defined in <a href="#">ORS 726.010</a>, that is required to be licensed under ORS chapter 726.</p> <p>(7) “Telephone solicitation” means a solicitation where a person, in the course of the person's business, vocation or occupation, uses a telephone or an automatic dialing-announcing device to initiate telephonic contact with a potential customer and the person is not one of the following:</p> <p>(a) A person who is a broker-dealer or salesperson licensed under <a href="#">ORS 59.175</a>, or a mortgage banker or mortgage broker licensed under <a href="#">ORS 86A.106</a>, when the solicitation is for a security qualified for sale pursuant to <a href="#">ORS 59.055</a>.</p> <p>(b) A real estate licensee or a person who is otherwise authorized to engage in professional real estate activity pursuant to ORS chapter 696, when the solicitation involves professional real estate activity.</p> <p>(c) A person licensed or exempt from licensure as a builder pursuant to ORS chapter 701, when the solicitation involves the construction, alteration, repair, improvement or demolition of a structure.</p> <p>(d) A person licensed or otherwise authorized to sell insurance as an insurance producer pursuant to ORS chapter 744, when the solicitation involves insurance.</p> <p>(e) A person soliciting the sale of a newspaper of general circulation, a magazine or membership in a book or record club who complies with <a href="#">ORS 646.611</a>, when the solicitation involves newspapers, magazines or membership in a book or record club.</p> <p>(f) A person soliciting without the intent to complete and who does not complete the sales presentation during the telephone solicitation and who only completes the sales presentation at a later face-to-face meeting between the solicitor and the prospective purchaser.</p> <p>(g) A supervised financial institution or parent, subsidiary or affiliate thereof. As used in this paragraph, “supervised financial institution” means any financial institution or trust company, as those terms are defined in <a href="#">ORS 706.008</a>, or any personal property broker, consumer finance lender, commercial finance lender or insurer that is subject to regulation by an official or agency of this state or of the United States.</p> <p>(h) A person who is authorized to conduct prearrangement or preconstruction funeral or cemetery sales, pursuant to ORS chapter 692, when the solicitation involves prearrangement or preconstruction funeral or cemetery plans.</p> <p>(i) A person who solicits the services provided by a cable television system licensed or franchised pursuant to state, local or federal law, when the solicitation involves cable television services.</p> <p>(j) A person or affiliate of a person whose business is regulated by the Public Utility Commission of Oregon.</p> <p>(k) A person who sells farm products as defined by <a href="#">ORS 576.006</a> if the solicitation neither intends to nor actually results in a sale that costs the purchaser in excess of \$100.</p> <p>(L) An issuer or subsidiary of an issuer that has a class of securities that is subject to section 12 of the Securities Exchange Act of 1934<sup>1</sup> and that is either registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G) or (H) or subsection (g) of that section.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(m) A person soliciting exclusively the sale of telephone answering services to be provided by that person or that person's employer when the solicitation involves answering services.</p> <p>(n) A telecommunications utility with access lines of 15,000 or less or a cooperative telephone association when the solicitation involves regulated goods or services.</p> <p>(8) “Trade” and “commerce” mean advertising, offering or distributing, whether by sale, rental or otherwise, any real estate, goods or services, and include any trade or commerce directly or indirectly affecting the people of this state.</p> <p>(9) “Unconscionable tactics” include, but are not limited to, actions by which a person:</p> <p>(a) Knowingly takes advantage of a customer's physical infirmity, ignorance, illiteracy or inability to understand the language of the agreement;</p> <p>(b) Knowingly permits a customer to enter into a transaction from which the customer will derive no material benefit;</p> <p>(c) Permits a customer to enter into a transaction with knowledge that there is no reasonable probability of payment of the attendant financial obligation in full by the customer when due; or</p> <p>(d) Knowingly takes advantage of a customer who is a disabled veteran, a disabled servicemember or a servicemember in active service, or the spouse of a disabled veteran, disabled servicemember or servicemember in active service. For purposes of this paragraph:</p> <p>(A) “Disabled veteran” has the meaning given that term in <a href="#">ORS 408.225</a>.</p> <p>(B) “Disabled servicemember” means a servicemember, as defined in <a href="#">50 U.S.C. 3911</a> as in effect on January 1, 2010, who may be entitled to disability compensation under laws administered by the United States Department of Veterans Affairs.</p> <p>(C) “Servicemember in active service” means:</p> <p>(i) A servicemember called into active service under Title 10 or Title 32 of the United States Code as in effect on January 1, 2010; or</p> <p>(ii) A servicemember on state active duty, as defined in the Oregon Code of Military Justice.</p> <p>(10) A willful violation occurs when the person committing the violation knew or should have known that the conduct of the person was a violation.</p> <p>(11) A loan is made “in close connection with the sale of a manufactured dwelling” if:</p> <p>(a) The lender directly or indirectly controls, is controlled by or is under common control with the seller, unless the relationship is remote and is not a factor in the transaction;</p> <p>(b) The lender gives a commission, rebate or credit in any form to a seller who refers the borrower to the lender, other than payment of the proceeds of the loan jointly to the seller and the borrower;</p> <p>(c) The lender is related to the seller by blood or marriage;</p> <p>(d) The seller directly and materially assists the borrower in obtaining the loan;</p> <p>(e) The seller prepares documents that are given to the lender and used in connection with the loan; or</p> <p>(f) The lender supplies documents to the seller used by the borrower in obtaining the loan.</p> <p><b><i>Credits</i></b></p> <p>Added by Laws 1965, c. 490, § 2. Amended by Laws 1967, c. 599, § 1; Laws 1971, c. 744, § 5; Laws 1973, c. 235, § 1; Laws 1977, c. 195, § 1; Laws 1989, c. 137, § 1; <a href="#">Laws 1993, c. 508, § 40</a>; <a href="#">Laws 1995, c. 79, § 328</a>; <a href="#">Laws 1997, c. 249, § 197</a>; <a href="#">Laws 1997, c. 631, § 514</a>; <a href="#">Laws 1999, c. 59, § 189</a>; <a href="#">Laws 1999, c. 402, § 6</a>; <a href="#">Laws 2001, c. 917, § 4</a>; <a href="#">Laws 2003, c. 364, § 52</a>; <a href="#">Laws 2003, c. 658, §§ 11, 12</a>; <a href="#">Laws 2007, c. 71, §§ 198, 199</a>, eff. Jan. 1, 2008; <a href="#">Laws 2007, c. 319, §§ 31, 32</a>, eff. Jan. 1, 2008; <a href="#">Laws 2009, c. 215, §§ 1, 2</a>, eff. Jan. 1, 2010; <a href="#">Laws 2010, c. 94 (1st Sp. Sess.), §§ 1, 2</a>, eff. March 23, 2010; <a href="#">Laws 2013, c. 81, §§ 23, 24</a>, eff. May 9, 2013; <a href="#">Laws 2013, c. 1, §§ 79, 80</a>, eff. Jan. 1, 2014; <a href="#">Laws 2019, c. 13, § 58</a>, eff. Jan. 1, 2020.</p> <p><b>2023 Oregon Laws S.B. 256 (West's No. 241)</b></p> <p><u>SECTION 2.</u> ORS 646.608 is amended to read:</p> <p>&lt;&lt; OR ST 646.608 &gt;&gt;</p> <p>646.608. (1) A person engages in an unlawful practice if in the course of the person's business, vocation or occupation the person does any of the following:</p> <p>(a) Passes off real estate, goods or services as the real estate, goods or services of another.</p> <p>(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of real estate, goods or services.</p> <p>(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another.</p> <p>(d) Uses deceptive representations or designations of geographic origin in connection with real estate, goods or services.</p> <p>(e) Represents that real estate, goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.</p> <p>(f) Represents that real estate or goods are original or new if the real estate or goods are deteriorated, altered, reconditioned, reclaimed, used or secondhand.</p> <p>(g) Represents that real estate, goods or services are of a particular standard, quality, or grade, or that real estate or goods are of a particular style or model, if the real estate, goods or services are of another.</p> |



| State /Citation        | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| ORS 166.715 to 166.735 | <p>(h) Disparages the real estate, goods, services, property or business of a customer or another by false or misleading representations of fact.</p> <p>(i) Advertises real estate, goods or services with intent not to provide the real estate, goods or services as advertised, or with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.</p> <p>(j) Makes false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions.</p> <p>(k) Makes false or misleading representations concerning credit availability or the nature of the transaction or obligation incurred.</p> <p>(L) Makes false or misleading representations relating to commissions or other compensation to be paid in exchange for permitting real estate, goods or services to be used for model or demonstration purposes or in exchange for submitting names of potential customers.</p> <p>(m) Performs service on or dismantles any goods or real estate if the owner or apparent owner of the goods or real estate does not authorize the service or dismantling.</p> <p>(n) Solicits potential customers by telephone or door to door as a seller unless the person provides the information required under ORS 646.611.</p> <p>(o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate, discount or other value is contingent upon an event occurring after the time the customer enters into the transaction.</p> <p>(p) Makes any false or misleading statement about a prize, contest or promotion used to publicize a product, business or service.</p> <p>(q) Promises to deliver real estate, goods or services within a certain period of time with intent not to deliver the real estate, goods or services as promised.</p> <p>(r) Organizes or induces or attempts to induce membership in a pyramid club.</p> <p>(s) Makes false or misleading representations of fact concerning the offering price of, or the person's cost for real estate, goods or services.</p> <p>(t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any known material defect or material nonconformity.</p> <p>(u) Engages in any other unfair or deceptive conduct in trade or commerce.</p> <p>(v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers, consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situation.</p> <p>(w) Manufactures mercury fever thermometers.</p> <p>(x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal law, or is:</p> <p>(A) Prescribed by a person licensed under ORS chapter 677; and</p> <p>(B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and on the proper cleanup of mercury should breakage occur.</p> <p>(y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to inform the purchaser that mercury is present in the thermostat and that the thermostat may not be disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the mercury does not become part of the solid waste stream or wastewater. For purposes of this paragraph, “thermostat” means a device commonly used to sense and, through electrical communication with heating, cooling or ventilation equipment, control room temperature.</p> <p>(z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains mercury light switches.</p> <p>(aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.</p> <p>(bb) Violates ORS 646A.070 (1).</p> <p>(cc) Violates any requirement of ORS 646A.030 to 646A.040.</p> <p>(dd) Violates the provisions of ORS 128.801 to 128.898.</p> <p>(ee) Violates ORS 646.883 or 646.885.</p> <p>(ff) Violates ORS 646.569.</p> <p>(gg) Violates the provisions of ORS 646A.142.</p> <p>(hh) Violates ORS 646A.360.</p> <p>(ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.</p> <p>(jj) Violates ORS 646.563.</p> <p>(kk) Violates ORS 759.680 or any rule adopted pursuant thereto.</p> <p>(LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant thereto.</p> <p>(mm) Violates ORS 646A.210 or 646A.214.</p> <p>(nn) Violates any provision of ORS 646A.124 to 646A.134.</p> <p>(oo) Violates ORS 646A.095.</p> <p>(pp) Violates ORS 822.046.</p> <p>(qq) Violates ORS 128.001.</p> <p>(rr) Violates ORS 646A.800 (2) to (4).</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>(ss) Violates ORS 646A.090 (2) to (5).</p> <p>(tt) Violates ORS 87.686.</p> <p>(uu) Violates ORS 646A.803.</p> <p>(vv) Violates ORS 646A.362.</p> <p>(ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.</p> <p>(xx) Violates ORS 180.440 (1) or 180.486 (1).</p> <p>(yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.</p> <p>(zz) Violates ORS 87.007 (2) or (3).</p> <p>(aaa) Violates ORS 92.405 (1), (2) or (3).</p> <p>(bbb) Engages in an unlawful practice under ORS 646.648.</p> <p>(ccc) Violates ORS 646A.365.</p> <p>(ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858.</p> <p>(eee) Sells a gift card in violation of ORS 646A.276.</p> <p>(fff) Violates ORS 646A.102, 646A.106 or 646A.108.</p> <p>(ggg) Violates ORS 646A.430 to 646A.450.</p> <p>(hhh) Violates a provision of ORS 744.318 to 744.384.</p> <p>(iii) Violates a provision of ORS 646A.702 to 646A.720.</p> <p>(jji) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration described in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the subject of the violation.</p> <p>(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.</p> <p>(LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50 U.S.C. 3901 et seq., as in effect on January 1, 2010.</p> <p>(mmm) Violates a provision of ORS 646A.480 to 646A.495.</p> <p>(nnn) Violates ORS 646A.082.</p> <p>(ooo) Violates ORS 646.647.</p> <p>(ppp) Violates ORS 646A.115.</p> <p>(qqq) Violates a provision of ORS 646A.405.</p> <p>(rrr) Violates ORS 646A.092.</p> <p>(sss) Violates a provision of ORS 646.644.</p> <p>(ttt) Violates a provision of ORS 646A.295.</p> <p>(uuu) Violates ORS 646A.564.</p> <p>(vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as defined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to do so or unless the person is an active member of the Oregon State Bar.</p> <p>(www) Violates ORS 702.012, 702.029 or 702.054.</p> <p>(xxx) Violates ORS 646A.806.</p> <p>(yyy) Violates ORS 646A.810 (2).</p> <p>(zzz) Violates ORS 443.376.</p> <p>(aaaa) Violates a provision of ORS 646A.770 to 646A.787.</p> <p>(bbbb) Violates section 1 of this 2023 Act.</p> <p>(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.</p> <p>(3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prosecuting attorney need not prove competition between the parties or actual confusion or misunderstanding.</p> <p>(4) An action or suit may not be brought under subsection (1)(u) of this section unless the Attorney General has first established a rule in accordance with the provisions of ORS chapter 183 declaring the conduct to be unfair or deceptive in trade or commerce.</p> <p>(5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attorney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney fees.</p> <p>Approved July 13, 2023</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><i>Credits</i></p> <p>Added by Laws 1971, c. 744, § 7 (enacted in lieu of 646.615). Amended by Laws 1973, c. 235, § 2; Laws 1973, c. 513, § 1; Laws 1975, c. 437, § 1; Laws 1977, c. 195, § 2; Laws 1979, c. 503, § 4; Laws 1983, c. 404, § 5; Laws 1985, c. 251, § 10a; Laws 1985, c. 538, § 3; Laws 1985, c. 694, § 8; Laws 1985, c. 729, § 22; Laws 1987, c. 626, § 5; Laws 1989, c. 273, § 7; Laws 1989, c. 451, § 4; Laws 1989, c. 458, § 3; Laws 1989, c. 621, § 4; Laws 1989, c. 622, § 7; Laws 1989, c. 623, § 3; Laws 1989, c. 913, § 1; <a href="#">Laws 1991, c. 532, § 25</a>; <a href="#">Laws 1991, c. 672, § 8</a>; <a href="#">Laws 1993, c. 58, § 3</a>; <a href="#">Laws 1993, c. 283, § 10</a>; <a href="#">Laws 1993, c. 582, § 11</a>; <a href="#">Laws 1993, c. 645, § 10</a>; <a href="#">Laws 1993, c. 700, § 2</a>; <a href="#">Laws 1995, c. 713, § 6</a>; <a href="#">Laws 1995, c. 788, § 2</a>; <a href="#">Laws 1997, c. 132, § 6</a>; <a href="#">Laws 1997, c. 806, § 2</a>; <a href="#">Laws 1999, c. 194, § 9</a>; <a href="#">Laws 1999, c. 400, § 4</a>; <a href="#">Laws 1999, c. 669, § 3</a>; <a href="#">Laws 1999, c. 719, § 3</a>; <a href="#">Laws 1999, c. 875, § 3</a>; <a href="#">Laws 2001, c. 924, §§ 11, 13</a>; <a href="#">Laws 2001, c. 969, § 5</a>; <a href="#">Laws 2003, c. 133, §§ 1, 2</a>; <a href="#">Laws 2003, c. 486, §§ 2, 3</a>; <a href="#">Laws 2003, c. 778, §§ 4, 5</a>; <a href="#">Laws 2003, c. 801, §§ 18, 19</a>, eff. Sept. 24, 2003; <a href="#">Laws 2005, c. 42, §§ 1, 2</a>; <a href="#">Laws 2005, c. 799, §§ 2, 3</a>; <a href="#">Laws 2007, c. 304, § 2</a>, eff. Jan. 1, 2008; <a href="#">Laws 2007, c. 772, § 4</a>, eff. Jan. 1, 2008; <a href="#">Laws 2007, c. 538, § 18</a>, eff. Jan. 1, 2008; <a href="#">Laws 2007, c. 820, § 8</a>, eff. Jan. 1, 2008; <a href="#">Laws 2007, c. 823, § 5</a>, eff. Jan. 1, 2008; <a href="#">Laws 2007, c. 685, § 13</a>, eff. July 1, 2008; <a href="#">Laws 2008, c. 19 (1st Sp. Sess.), §§ 7, 8</a>, eff. March 11, 2008; <a href="#">Laws 2008, c. 31 (1st Sp. Sess.), §§ 5, 6</a>, eff. May 1, 2008; <a href="#">Laws 2009, c. 448, § 11</a>, eff. Sept. 21, 2009; <a href="#">Laws 2009, c. 717, § 26</a>, eff. Sept. 28, 2009; <a href="#">Laws 2009, c. 133, § 6</a>, eff. Jan. 1, 2010; <a href="#">Laws 2009, c. 150, § 1</a>, eff. Jan. 1, 2010; <a href="#">Laws 2009, c. 170, § 1</a>, eff. Jan. 1, 2010; <a href="#">Laws 2009, c. 197, § 1</a>, eff. Jan. 1, 2010; <a href="#">Laws 2009, c. 215, § 3</a>, eff. Jan. 1, 2010; <a href="#">Laws 2009, c. 310, § 2</a>, eff. Jan. 1, 2010; <a href="#">Laws 2009, c. 604, § 23</a>, eff. Jan. 1, 2010; <a href="#">Laws 2009, c. 711, § 21</a>, eff. Jan. 1, 2010; <a href="#">Laws 2011, c. 57, § 2</a>, eff. Jan. 1, 2012; <a href="#">Laws 2011, c. 502, § 3</a>, eff. Jan. 1, 2012; <a href="#">Laws 2011, c. 509, § 4</a>, eff. Jan. 1, 2012; <a href="#">Laws 2012, c. 52, § 6</a>, eff. Jan. 1, 2013; <a href="#">Laws 2013, c. 54, § 8</a>, eff. Jan. 1, 2014; <a href="#">Laws 2013, c. 77, § 1</a>, eff. Jan. 1, 2014; <a href="#">Laws 2013, c. 330, § 2</a>, eff. Jan. 1, 2014; <a href="#">Laws 2013, c. 493, § 5</a>, eff. Jan. 1, 2014; <a href="#">Laws 2014, c. 19, § 3</a>, eff. March 3, 2014, operative June 2, 2014; <a href="#">Laws 2015, c. 523, § 9</a>, eff. Jan. 1, 2016; <a href="#">Laws 2015, c. 523, § 10</a>, eff. Jan. 1, 2016, operative Jan. 2, 2020; <a href="#">Laws 2017, c. 656, §§ 5, 6</a>, eff. Aug. 8, 2017, operative Jan. 2, 2020; <a href="#">Laws 2017, c. 113, §§ 14, 15</a>, eff. Jan. 1, 2018, operative Jan. 2, 2020; <a href="#">Laws 2017, c. 241, §§ 2, 3</a>, eff. Jan. 1, 2018, operative Jan. 2, 2020; <a href="#">Laws 2017, c. 480, §§ 15,16</a>, eff. Jan. 1, 2018, operative Jan. 2, 2020; <a href="#">Laws 2019, c. 13, §§ 59, 60</a>, eff. Jan. 1, 2020, operative Jan. 2, 2020; <a href="#">Laws 2019, c. 175, § 2</a>, eff. Jan. 1, 2020, operative Jan. 2, 2020; <a href="#">Laws 2021, c. 578, § 12</a>, eff. July 19, 2021, operative Jan. 1, 2022.; 2023 Oregon Laws S.B. 256 (West's No. 241)</p> <p><b>Racketeering – Civil or Criminal</b><br/><b>OR ST 166.715 Definitions for <a href="#">ORS 166.715</a> to <a href="#">166.735</a>.</b></p> <p>As used in ORS 166.715 to <a href="#">166.735</a>, unless the context requires otherwise:</p> <p>(1) “Documentary material” means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.</p> <p>(2) “Enterprise” includes any individual, sole proprietorship, partnership, corporation, business trust or other profit or nonprofit legal entity, and includes any union, association or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.</p> <p>(3) “Investigative agency” means the Department of Justice or any district attorney.</p> <p>(4) “Pattern of racketeering activity” means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering activity. Notwithstanding <a href="#">ORS 131.505</a> to <a href="#">131.525</a> or <a href="#">419A.190</a> or any other provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct that constitutes an incident of racketeering activity may be used to establish a pattern of racketeering activity without regard to whether the conduct previously has been the subject of a criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within the jurisdiction of the juvenile court.</p> <p>(5) “Person” means any individual or entity capable of holding a legal or beneficial interest in real or personal property.</p> <p>(6) “Racketeering activity” includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:</p> <p>(a) Any conduct that constitutes a crime, as defined in <a href="#">ORS 161.515</a>, under any of the following provisions of the Oregon Revised Statutes:</p> <p>(A) <a href="#">ORS 59.005</a> to <a href="#">59.505</a>, <a href="#">59.710</a> to <a href="#">59.830</a>, <a href="#">59.991</a> and <a href="#">59.995</a>, relating to securities;</p> <p>(B) <a href="#">ORS 162.015</a>, <a href="#">162.025</a> and <a href="#">162.065</a> to <a href="#">162.085</a>, relating to bribery and perjury;</p> <p>(C) <a href="#">ORS 162.235</a>, <a href="#">162.265</a> to <a href="#">162.305</a>, <a href="#">162.325</a>, <a href="#">162.335</a>, <a href="#">162.355</a> and <a href="#">162.365</a>, relating to obstructing governmental administration;</p> <p>(D) <a href="#">ORS 162.405</a> to <a href="#">162.425</a>, relating to abuse of public office;</p> <p>(E) <a href="#">ORS 162.455</a>, relating to interference with legislative operation;</p> <p>(F) <a href="#">ORS 163.095</a> to <a href="#">163.115</a>, <a href="#">163.118</a>, <a href="#">163.125</a> and <a href="#">163.145</a>, relating to criminal homicide;</p> <p>(G) <a href="#">ORS 163.160</a> to <a href="#">163.205</a>, relating to assault and related offenses;</p> <p>(H) <a href="#">ORS 163.225</a> and <a href="#">163.235</a>, relating to kidnapping;</p> <p>(I) <a href="#">ORS 163.275</a>, relating to coercion;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(J) <a href="#">ORS 163.665</a> to <a href="#">163.693</a>, relating to sexual conduct of children;</p> <p>(K) <a href="#">ORS 164.015</a>, <a href="#">164.043</a>, <a href="#">164.045</a>, <a href="#">164.055</a>, <a href="#">164.057</a>, <a href="#">164.075</a> to <a href="#">164.095</a>, <a href="#">164.098</a>, <a href="#">164.125</a>, <a href="#">164.135</a>, <a href="#">164.140</a>, <a href="#">164.215</a>, <a href="#">164.225</a> and <a href="#">164.245</a> to <a href="#">164.270</a>, relating to theft, burglary, criminal trespass and related offenses;</p> <p>(L) <a href="#">ORS 164.315</a> to <a href="#">164.335</a>, relating to arson and related offenses;</p> <p>(M) <a href="#">ORS 164.345</a> to <a href="#">164.365</a>, relating to criminal mischief;</p> <p>(N) <a href="#">ORS 164.395</a> to <a href="#">164.415</a>, relating to robbery;</p> <p>(O) <a href="#">ORS 164.865</a>, <a href="#">164.875</a> and <a href="#">164.868</a> to <a href="#">164.872</a>, relating to unlawful recording or labeling of a recording;</p> <p>(P) <a href="#">ORS 165.007</a> to <a href="#">165.022</a>, <a href="#">165.032</a> to <a href="#">165.042</a> and <a href="#">165.055</a> to <a href="#">165.070</a>, relating to forgery and related offenses;</p> <p>(Q) <a href="#">ORS 165.080</a> to <a href="#">165.109</a>, relating to business and commercial offenses;</p> <p>(R) <a href="#">ORS 165.540</a> and <a href="#">165.555</a>, relating to communication crimes;</p> <p>(S) <a href="#">ORS 166.180</a>, <a href="#">166.190</a>, <a href="#">166.220</a>, <a href="#">166.250</a>, <a href="#">166.270</a>, <a href="#">166.275</a>, <a href="#">166.410</a>, <a href="#">166.450</a> and <a href="#">166.470</a>, relating to firearms and other weapons;</p> <p>(T) <a href="#">ORS 164.377 (2)</a> to <a href="#">(4)</a>, as punishable under <a href="#">ORS 164.377 (5)(b)</a>, <a href="#">167.007</a> to <a href="#">167.017</a>, <a href="#">167.057</a>, <a href="#">167.062</a> to <a href="#">167.080</a>, <a href="#">167.090</a>, <a href="#">167.122</a> to <a href="#">167.137</a>, <a href="#">167.147</a>, <a href="#">167.164</a>, <a href="#">167.167</a>, <a href="#">167.212</a>, <a href="#">167.355</a>, <a href="#">167.365</a>, <a href="#">167.370</a>, <a href="#">167.428</a>, <a href="#">167.431</a> and <a href="#">167.439</a>, relating to prostitution, obscenity, sexual conduct, gambling, computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related offenses;</p> <p>(U) <a href="#">ORS 171.990</a>, relating to legislative witnesses;</p> <p>(V) <a href="#">ORS 260.575</a> and <a href="#">260.665</a>, relating to election offenses;</p> <p>(W) <a href="#">ORS 314.075</a>, relating to income tax;</p> <p>(X) <a href="#">ORS 180.440 (2)</a> and <a href="#">180.486 (2)</a> and ORS chapter 323, relating to cigarette and tobacco products taxes and the directories developed under <a href="#">ORS 180.425</a> and <a href="#">180.477</a>;</p> <p>(Y) <a href="#">ORS 411.630</a>, <a href="#">411.675</a>, <a href="#">411.690</a> and <a href="#">411.840</a>, relating to public assistance payments or medical assistance benefits, and <a href="#">ORS 411.990 (2)</a> and <a href="#">(3)</a>;</p> <p>(Z) <a href="#">ORS 462.140</a>, <a href="#">462.415</a> and <a href="#">462.420</a> to <a href="#">462.520</a>, relating to racing;</p> <p>(AA) <a href="#">ORS 463.995</a>, relating to entertainment wrestling and unarmed combat sports, as defined in <a href="#">ORS 463.015</a>;</p> <p>(BB) <a href="#">ORS 471.305</a>, <a href="#">471.360</a>, <a href="#">471.392</a> to <a href="#">471.400</a>, <a href="#">471.403</a>, <a href="#">471.404</a>, <a href="#">471.405</a>, <a href="#">471.425</a>, <a href="#">471.442</a>, <a href="#">471.445</a>, <a href="#">471.446</a>, <a href="#">471.485</a>, <a href="#">471.490</a> and <a href="#">471.675</a>, relating to alcoholic liquor, and any of the provisions of ORS chapter 471 relating to licenses issued under the Liquor Control Act;</p> <p>(CC) <a href="#">ORS 475B.010</a> to <a href="#">475B.545</a>, relating to marijuana items as defined in <a href="#">ORS 475B.015</a>;</p> <p>(DD) <a href="#">ORS 475.005</a> to <a href="#">475.285</a> and <a href="#">475.752</a> to <a href="#">475.980</a>, relating to controlled substances;</p> <p>(EE) <a href="#">ORS 480.070</a>, <a href="#">480.210</a>, <a href="#">480.215</a>, <a href="#">480.235</a> and <a href="#">480.265</a>, relating to explosives;</p> <p>(FF) <a href="#">ORS 819.010</a>, <a href="#">819.040</a>, <a href="#">822.100</a>, <a href="#">822.135</a> and <a href="#">822.150</a>, relating to motor vehicles;</p> <p>(GG) <a href="#">ORS 658.452</a> or <a href="#">658.991 (2)</a> to <a href="#">(4)</a>, relating to labor contractors;</p> <p>(HH) ORS chapter 706, relating to banking law administration;</p> <p>(II) ORS chapter 714, relating to branch banking;</p> <p>(JJ) ORS chapter 716, relating to mutual savings banks;</p> <p>(KK) ORS chapter 723, relating to credit unions;</p> <p>(LL) ORS chapter 726, relating to pawnbrokers;</p> <p>(MM) <a href="#">ORS 166.382</a> and <a href="#">166.384</a>, relating to destructive devices;</p> <p>(NN) <a href="#">ORS 165.074</a>;</p> <p>(OO) <a href="#">ORS 86A.095</a> to <a href="#">86A.198</a>, relating to mortgage bankers and mortgage brokers;</p> <p>(PP) ORS chapter 496, 497 or 498, relating to wildlife;</p> <p>(QQ) <a href="#">ORS 163.355</a> to <a href="#">163.427</a>, relating to sexual offenses;</p> <p>(RR) <a href="#">ORS 166.015</a>, relating to riot;</p> <p>(SS) <a href="#">ORS 166.155</a> and <a href="#">166.165</a>, relating to bias crimes;</p> <p>(TT) ORS chapter 696, relating to real estate and escrow;</p> <p>(UU) ORS chapter 704, relating to outfitters and guides;</p> <p>(VV) <a href="#">ORS 165.692</a>, relating to making a false claim for health care payment;</p> <p>(WW) <a href="#">ORS 162.117</a>, relating to public investment fraud;</p> <p>(XX) <a href="#">ORS 164.170</a> or <a href="#">164.172</a>;</p> <p>(YY) <a href="#">ORS 647.140</a>, <a href="#">647.145</a> or <a href="#">647.150</a>, relating to trademark counterfeiting;</p> |

| State /Citation                  | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| ORS 166.720                      | <p>(ZZ) <a href="#">ORS 164.886</a>;</p> <p>(AAA) <a href="#">ORS 167.312</a> and <a href="#">167.388</a>;</p> <p>(BBB) <a href="#">ORS 164.889</a>;</p> <p>(CCC) <a href="#">ORS 165.800</a>; or</p> <p>(DDD) <a href="#">ORS 163.263</a>, <a href="#">163.264</a> or <a href="#">163.266</a>.</p> <p>(b) Any conduct defined as “racketeering activity” under <a href="#">18 U.S.C. 1961 (1)(B), (C), (D) and (E)</a>.</p> <p>(7) “Unlawful debt” means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred or contracted:</p> <p>(a) In violation of any one of the following:</p> <p>(A) ORS chapter 462, relating to racing;</p> <p>(B) <a href="#">ORS 167.108</a> to <a href="#">167.164</a>, relating to gambling; or</p> <p>(C) <a href="#">ORS 82.010</a> to <a href="#">82.170</a>, relating to interest and usury.</p> <p>(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under federal or state law.</p> <p>(8) Notwithstanding contrary provisions in <a href="#">ORS 174.060</a>, when this section references a statute in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions from what the statute was when this section was enacted, the reference shall extend to and include amendments to the statute.</p> <p><b><i>Credits</i></b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| OAR 410-120-1395 to 410-120-1510 | <p>Added by Laws 1981, c. 769, § 2. Amended by Laws 1983, c. 338, § 898; Laws 1983, c. 715, § 1; Laws 1985, c. 176, § 5; Laws 1985, c. 557, § 8; Laws 1987, c. 158, § 31; Laws 1987, c. 249, § 7; Laws 1987, c. 789, § 20; Laws 1987, c. 907, § 12; Laws 1989, c. 384, § 2; Laws 1989, c. 839, § 27; Laws 1989, c. 846, § 13; Laws 1989, c. 982, § 6; <a href="#">Laws 1991, c. 398, § 3</a>; <a href="#">Laws 1991, c. 962, § 6</a>; <a href="#">Laws 1993, c. 95, § 13</a>; <a href="#">Laws 1993, c. 215, § 1</a>; <a href="#">Laws 1993, c. 508, § 45</a>; <a href="#">Laws 1993, c. 680, § 29</a>; <a href="#">Laws 1995, c. 301, § 35</a>; <a href="#">Laws 1995, c. 440, § 13</a>; <a href="#">Laws 1995, c. 768, § 10</a>; <a href="#">Laws 1997, c. 631, § 420</a>; <a href="#">Laws 1997, c. 789, § 1</a>; <a href="#">Laws 1997, c. 867, § 23</a>; <a href="#">Laws 1999, c. 722, § 8</a>; <a href="#">Laws 1999, c. 878, § 4</a>; <a href="#">Laws 2001, c. 146, § 1</a>; <a href="#">Laws 2001, c. 147, § 3</a>; <a href="#">Laws 2003, c. 111, § 1</a>; <a href="#">Laws 2003, c. 484, § 8</a>; <a href="#">Laws 2003, c. 801, § 15</a>, eff. Sept. 24, 2003; <a href="#">Laws 2003, c. 804, § 66</a>; <a href="#">Laws 2007, c. 498, § 3</a>, eff. Jan. 1, 2008; <a href="#">Laws 2007, c. 585, § 26</a>, eff. June 25, 2007; <a href="#">Laws 2007, c. 811, § 7</a>, eff. July 17, 2007; <a href="#">Laws 2007, c. 869, § 7</a>, eff. Jan. 1, 2008; <a href="#">Laws 2009, c. 717, § 25</a>, eff. Sept. 28, 2009; <a href="#">Laws 2011, c. 681, § 6</a>, eff. Aug. 2, 2011; <a href="#">Laws 2011, c. 597, § 166</a>, eff. July 1, 2011, operative Jan. 1, 2012; <a href="#">Laws 2013, c. 688, § 23</a>, eff. July 29, 2013, operative Jan. 1, 2014; <a href="#">Laws 2013, c. 584, § 27</a>, eff. July 1, 2013, operative July 1, 2015; <a href="#">Laws 2017, c. 21, § 46</a>, eff. April 21, 2017; <a href="#">Laws 2017, c. 235, § 21</a>, eff. Oct. 6, 2017, operative Jan. 1, 2018; <a href="#">Laws 2019, c. 553, § 15</a>, eff. July 15, 2019.</p> |

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|  | <p><b>OAR 410-120-1395 - Program Integrity</b><br/>OR ADC 410-120-1395</p> <p>(1) The Oregon Health Authority (Authority) uses several approaches to promote program integrity. These rules describe program integrity actions related to provider payments. Our program integrity goal is to pay the correct amount to a properly enrolled provider for covered, medically appropriate services provided to an eligible client according to the client's benefit package of health care services in effect on the date of service. Types of program integrity activities include but are not limited to the following activities:</p> <p>(a) Medical review and prior authorization processes, including all actions taken to determine the medical appropriateness of services or items;</p> <p>(b) Provider obligations to submit correct claims;</p> <p>(c) Onsite visits to verify compliance with standards;</p> <p>(d) Implementation of Health Insurance Portability and Accountability Act (HIPAA) electronic transaction standards to improve accuracy and timeliness of claims processing and encounter reporting;</p> <p>(e) Provider credentialing activities;</p> <p>(f) Accessing federal Department of Health and Human Services database (exclusions);</p> <p>(g) Quality improvement activities;</p> <p>(h) Cost report settlement processes;</p> <p>(i) Audits;</p> <p>(j) Investigation of fraud or prohibited kickback relationships;</p> <p>(k) Coordination with the Department of Justice Medicaid Fraud Control Unit (MFCU) and other health oversight authorities.</p> <p>(2) Providers must maintain clinical, financial and other records, capable of being audited or reviewed, consistent with the requirements of <a href="#">OAR 410-120-1360</a>, Requirements for Financial, Clinical and Other Records, in the General Rules Program, the Oregon Health Plan administrative rules, and the rules applicable to the service or item.</p> <p>(3) The following people may review a request for services or items, or audit a claim for care, services or items, before or after payment, for assurance that the specific care, item or service was provided in accordance with the Division of Medical Assistance Program's (Division) rules and the generally accepted standards of a provider's field of practice or specialty:</p> <p>(a) Authority, Department staff or designee; or</p> <p>(b) Medical utilization and review contractor; or</p> <p>(c) Dental utilization and review contractor; or</p> <p>(d) Federal or state oversight authority.</p> <p>(4) Payment may be denied or subject to recovery if the review or audit determines the care, service or item was not provided in accordance with Division rules or does not meet the criteria for quality or medical appropriateness of the care, service or item or payment. Related provider and Hospital billings will also be denied or subject to recovery.</p> |
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| <p>(5) When the Authority determines that an overpayment has been made to a provider, the amount of overpayment is subject to recovery.</p> <p>(6) The Authority may communicate with and coordinate any program integrity actions with the MFCU, DHHS, and other federal and state oversight authorities.</p> <p>(7) The Authority must notify HHS-OIG within 20 working days of any disclosures from the date it receives the information, or takes any adverse action to limit the ability of an individual or entity to participate in its program as provided in <a href="#">42 CFR 1002.3(b)</a>. This includes, but is not limited to, suspension, denials, terminations, settlement agreements and situations where an individual or entity voluntarily with draws from the program to avoid a formal sanction.</p> <p>(8) When the Authority initiates an exclusion under   1002.210, it must notify the individual or entity subject to the exclusion and other state agencies, the state medical licensing board, the public, beneficiaries, and others as provided in   1001.2005 and   1001.2006.</p> <p>Statutory Authority: <a href="#">ORS 413.042</a><br/>Statutes Implemented: <a href="#">ORS 414.019</a>, <a href="#">414.025</a> &amp; <a href="#">414.065</a></p> <p>History: OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; DMAP 28-2012, f. 6-21-12, cert. ef. 7-1-12</p> <p><b>OAR 410-120-1397 - Recovery of Overpayments to Providers -- Recoupments and Refunds</b></p> <p>OAR 410-120-1397<br/><b>410-120-1397. Recovery of Overpayments to Providers -- Recoupments and Refunds</b><br/><u><a href="#">Currentness</a></u></p> <p>(1) The Authority requires Providers to submit true, accurate, and complete claims or encounters. The Authority treats the submission of a claim or encounter, whether on paper or electronically, as certification by the Provider of the following: “This is to certify that the foregoing information is true, accurate, and complete. I understand that payment of this claim or encounter will be from federal and state funds, and that any falsification or concealment of a material fact maybe prosecuted under federal and state laws.”</p> <p>(2) Authority staff or a designee may review or audit a claim before or after payment for assurance that the specific care, item or service was provided in accordance with the Authority rules and policies, the terms applicable to the agreement or contract and the generally accepted standards of a Provider's field of practice or specialty:</p> <p>(a) “Designee” for the purposes of these rules includes, but is not limited to, a medical, behavioral, drug or dental utilization and review or a post-payment review contractor;</p> <p>(b) “Claim” for the purposes of these rules includes requests for payment under a Provider enrollment agreement or contract, whether submitted as a claim or invoice or other method for requesting payment authorized by administrative rule, and may include encounter data.</p> <p>(3) The Authority may deny payment or may deem payments subject to recovery as an Overpayment if a review or audit determines the care, item, drug or service was not provided in accordance with Authority policy and rules applicable agreement, intergovernmental agreement or contract, including but not limited to the reasons identified in section (5) of this rule. Related Provider and Hospital billings will also be denied or subject to recovery.</p> <p>(4) If a Provider determines that a submitted claim or encounter is incorrect, the Provider is obligated to submit an Individual Adjustment Request and refund the amount of the Overpayment, if any, consistent with the requirements of <a href="#">OAR 410-120-1280</a>. When the Provider determines that an Overpayment has been made, the Provider must notify and reimburse the Authority immediately, following one of the reimbursement procedures described below:</p> <p>(a) Submitting a Medicaid adjustment form (OHA 1036-Individual Adjustment Request) will result in an offset of future payments. It is not necessary to refund with a check if an offset of future payments is adequate to repay the amount of the Overpayment; or</p> <p>(b) Providers preferring to make a refund by check must attach a copy of the remittance statement page indicating the Overpayment information, except as provided by subsection (c) of this section. If the Overpayment involves an insurance payment or another Third Party Resource, Providers will attach a copy of the remittance statement from the insurance payer:</p> <p>(A) Refund checks not involving Third Party Resource payments will be made payable to Division Receipting -- Checks in Salem;</p> <p>(B) Refunds involving Third Party Resource payments will be made payable and submitted to the Division Receipting -- MPR Checks in Salem;</p> <p>(c) Providers making a refund by check based on audit or post-payment review will follow the reimbursement procedures described in the Overpayment notice or order in the audit or on post-payment review, if specified.</p> <p>(5) The Authority may determine, as a result of review or other information, that a payment should be denied or that an Overpayment has been made to a Provider, which indicates that a Provider may have submitted claims or encounters, or received payment to which the Provider is not properly entitled. Such payment denial or Overpayment determinations may be based on, but not limited to, the following grounds:</p> <p>(a) The Authority paid the Provider an amount in excess of the amount authorized under the State Plan or Authority rule, agreement or contract;</p> <p>(b) A third party paid the Provider for services (or a portion thereof) previously paid by the Authority;</p> |
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|  | <p>(c) The Authority paid the Provider for care, items, drugs or services that the Provider did not perform or provide;</p> <p>(d) The Authority paid for claims submitted by a data processing agent for whom a written Provider or Billing Agent/Billing Service agreement or other applicable contract or agreement was not on file at the time of submission;</p> <p>(e) The Authority paid for care, items, drugs or services and later determined they were not part of the client's benefit package;</p> <p>(f) Coding, processing submission or data entry errors;</p> <p>(g) The care, items, drugs or service was not provided in accordance with Authority rules or does not meet the criteria for quality of care, item, drug or service, or medical appropriateness of the care, item, drug, service or payment;</p> <p>(h) The Authority paid the Provider for care, items, drugs or services, when the Provider did not comply with Authority rules and requirements for reimbursement.</p> <p>(6) Prior to identifying an Overpayment, the Authority or designee may contact the Provider for the purpose of providing preliminary information and requesting additional documentation. Provider must provide the requested documentation within the time frames requested.</p> <p>(7) When an Overpayment is identified, The Authority will notify the Provider in writing, as to the nature of the discrepancy, the method of computing the dollar amount of the Overpayment, and any further action that the Authority may take in the matter:</p> <p>(a) The Authority notice may require the Provider to submit applicable documentation for review prior to requesting an appeal from the Authority, and may impose reasonable time limits for when such documentation must be provided in order to be considered by the Authority.</p> <p>(b) The Provider may appeal a Authority notice of Overpayment in the manner provided in <a href="#">OAR 410-120-1560</a>.</p> <p>(8) The Authority may recover Overpayments made to a Provider by direct reimbursement, offset, civil action, or other actions authorized by law:</p> <p>(a) The Provider must make a direct reimbursement to the Authority within thirty (30) calendar days from the date of the notice of the Overpayment, unless other regulations apply;</p> <p>(b) The Authority may grant the Provider an additional period of time to reimburse the Authority upon written request made within thirty (30) calendar days from the date of the notice of Overpayment if the Provider provides a statement of facts and reasons sufficient to show that repayment of the Overpayment amount should be delayed pending appeal because:</p> <p>(A) The Provider will suffer irreparable injury if the Overpayment repayment is not delayed;</p> <p>(B) There is a plausible reason to believe that the overpayment is not correct or is less than the amount in the notice, and the Provider has timely filed an appeal of the Overpayment, or that Provider accepts the amount of the Overpayment but is requesting to make repayment over a period of time;</p> <p>(C) A proposed method for assuring that the amount of the Overpayment can be repaid when due with interest, including but not limited to a bond, irrevocable letter of credit or other undertaking, or a repayment plan for making payments including interest over a period of time.</p> <p>(D) Granting the delay will not result in substantial public harm;</p> <p>(E) Affidavits containing evidence relied upon in support of the request for stay;</p> <p>(F) The Authority may consider all information in the record of the Overpayment determination, including Provider cooperation with timely provision of documentation, in addition to the information supplied in Provider's request. If Provider requests a repayment plan, the Authority may require conditions acceptable to the Authority before agreeing to a repayment plan. The Authority must issue an order granting or denying a repayment delay request within thirty (30) calendar days after receiving it.</p> <p>(c) Except as otherwise provided in subsection (b) a request for a hearing or administrative review does not change the date the repayment of the Overpayment is due, and if the outcome of the appeal reduces the amount of the Overpayment, that amount previously paid by the Provider in response to the notice of Overpayment will be refunded to the Provider;</p> <p>(d) The Authority may withhold payment on pending claims and on subsequently received claims for the amount of the overpayment when Overpayments are not paid as a result of section (7)(a) of this rule;</p> <p>(e) The Authority may file a civil action in the appropriate Court and exercise all other civil remedies available to the Authority in order to recover the amount of an overpayment.</p> <p>(9) In addition to any overpayment, the Authority may impose a Sanction on the Provider in connection with the actions that resulted in the overpayment. the Authority may, at its discretion, combine a notice of Sanction with a notice of Overpayment.</p> <p>(10) Voluntary submission of an Individual Adjustment Request or overpayment amount after notice from the Authority does not prevent the Authority from issuing a notice of Sanction, but the Authority may take such voluntary payment into account in determining the Sanction.</p> <p><b>Credits</b></p> <p>Statutory/Other Authority: <a href="#">ORS 413.042</a></p> <p>Statutes/Other Implemented: <a href="#">ORS 414.025</a>, 413.351, <a href="#">414.805</a>, <a href="#">416.350</a></p> <p>History: OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; DMAP 24-2007, f. 12-11-07 cert. ef. 1-1-08; DMAP 30-2023, minor correction f. &amp; cert. ef. 04/28/2023.</p> <p><b>OAR 410-120-1400</b><br/><b>410-120-1400. Provider Sanctions</b><br/><a href="#">Currentness</a></p> |
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| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(1) The Authority recognizes two classes of provider sanctions, mandatory and discretionary, outlined in sections (3) and (4) of this rule.</p> <p>(2) Except as otherwise noted, the Authority shall impose provider sanctions at the discretion of the Authority Director or the Administrator of the Division whose budget includes payment for the services involved.</p> <p>(3) The Authority's Health Systems Division (Division) shall impose mandatory sanctions and suspend the provider from participation in Oregon's medical assistance programs:</p> <p>(a) When a provider of medical services is convicted (as that term is defined in <a href="#">42 CFR 1001.2</a>) of a felony or misdemeanor related to a crime, or violation of Title XVIII, XIX, or XX of the Social Security Act, or related state laws;</p> <p>(b) When a provider is excluded from participation in federal or state health care programs by the Office of the Inspector General of the U.S. Department of Health and Human Services or from the Medicare (Title XVIII) program of the Social Security Act as determined by the Secretary of Health and Human Services. The provider shall be excluded and suspended from participation with the Division for the duration of exclusion or suspension from the Medicare program or by the Office of the Inspector General;</p> <p>(c) If the provider fails to disclose ownership or controlling information required under <a href="#">42 CFR 455.104</a> that is required to be reported at the time the provider submits a provider enrollment application, or when there is a material change in the information that must be reported or information related to business transactions required to be provided under <a href="#">42 CFR 455.105</a> upon request of federal or state authorities.</p> <p>(4) The Division may impose discretionary sanctions when the Division determines that the provider fails to meet one or more of the Division's requirements governing participation in its medical assistance programs. Conditions that may result in a discretionary sanction include but are not limited to when a provider is:</p> <p>(a) Convicted of fraud related to any federal, state, or locally financed health care program or commits fraud, receives kickbacks, or commits other acts that are subject to criminal or civil penalties under the Medicare or Medicaid statutes;</p> <p>(b) Convicted of interfering with the investigation of health care fraud;</p> <p>(c) Convicted of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;</p> <p>(d) By findings or actions of any state licensing authority for reasons relating to the provider's professional competence, professional conduct, quality of care, or financial integrity including but not limited to:</p> <p>(A) Having the health care license suspended or revoked, or otherwise loses their license; or</p> <p>(B) Surrendering their license while a formal disciplinary proceeding is pending before the licensing authority.</p> <p>(e) Suspended or excluded from participation in any federal or state health care program for reasons related to professional competence, professional performance, or other reason;</p> <p>(f) Bills excessive charges (i.e., charges more than the usual charge). Furnishes items or services substantially more than the Division client's needs or more than those services ordered by a medical provider or more than generally accepted standards or of a quality that fails to meet professionally recognized standards;</p> <p>(g) Fails to furnish medically necessary services as required by law or contract with the Division if the failure has adversely affected (or has a substantial likelihood of adversely affecting) the Division client;</p> <p>(h) Fails to disclose required ownership information;</p> <p>(i) Fails to supply requested information on subcontractors and suppliers of goods or services;</p> <p>(j) Fails to supply requested payment information;</p> <p>(k) Fails to grant access or to furnish as requested, records, or grant access to facilities upon request of the Division or the State of Oregon's Medicaid Fraud Unit conducting their regulatory or statutory functions;</p> <p>(L) In the case of a hospital, fails to take corrective action as required by the Division, based on information supplied by the Quality Improvement Organization to prevent or correct inappropriate admissions or practice patterns, within the time specified by the Division;</p> <p>(m) Defaults on repayment of federal or state government scholarship obligations or loans in connection with the provider's health profession education. The Division:</p> <p>(A) Must make a reasonable effort to secure payment;</p> <p>(B) Must take into account access of beneficiaries to services; and</p> <p>(C) May not exclude a community's sole physician or source of essential specialized services.</p> <p>(n) Repeatedly submits a claim with required data missing or incorrect:</p> <p>(A) When the missing or incorrect data allows the provider to:</p> <p>(i) Obtain greater payment than is appropriate;</p> <p>(ii) Circumvent prior authorization requirements;</p> <p>(iii) Charge more than the provider's usual charge to the general public;</p> <p>(iv) Receive payments for services provided to persons who are not eligible;</p> <p>(v) Establish multiple claims using procedure codes that overstate or misrepresent the level, amount, or type of health care provided.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(B) Fails to comply with the requirements of <a href="#">OAR 410-120-1280 (Billing)</a>.</p> <p>(o) Fails to develop, maintain, and retain in accordance with relevant rules and standards adequate clinical or other records that document the medical appropriateness, nature, and extent of the health care provided;</p> <p>(p) Fails to develop, maintain, and retain in accordance with relevant rules and standards adequate financial records that document charges incurred by a client and payments received from any source;</p> <p>(q) Fails to develop, maintain, and retain adequate financial or other records that support information submitted on a cost report;</p> <p>(r) Fails to follow generally accepted accounting principles or accounting standards or cost principles required by federal or state laws, rules, or regulations;</p> <p>(s) Submits claims or written orders contrary to generally accepted standards of medical practice;</p> <p>(t) Submits claims for services that exceed that requested or agreed to by the client or the responsible relative or guardian or requested by another medical provider;</p> <p>(u) Breaches the terms of the provider contract or agreement. This includes failure to comply with the terms of the provider certifications on the medical claim form;</p> <p>(v) Rebates or accepts a fee or portion of a fee or charge for an Division client referral, or collects a portion of a service fee from the client and bills the Division for the same service;</p> <p>(w) Submits false or fraudulent information when applying for the Division assigned provider number, or fails to disclose information requested on the provider enrollment application;</p> <p>(x) Fails to correct deficiencies in operations after receiving written notice of the deficiencies from the Division;</p> <p>(y) Submits any claim for payment for which payment has already been made by the Division or any other source unless the amount of the payment from the other source is clearly identified;</p> <p>(z) Threatens, intimidates, or harasses clients or their relatives in an attempt to influence payment rates or affect the outcome of disputes between the provider and the Division;</p> <p>(aa) Fails to properly account for a Division client's Personal Incidental Funds, including but not limited to using a client's Personal Incidental Funds for payment of services that are included in a medical facility's all-inclusive rates;</p> <p>(bb) Provides or bills for services provided by ineligible or unsupervised staff;</p> <p>(cc) Participates in collusion that results in an inappropriate money flow between the parties involved, for example, referring clients unnecessarily to another provider;</p> <p>(dd) Refuses or fails to repay in accordance with an accepted schedule an overpayment established by the Division;</p> <p>(ee) Fails to report to Division payments received from any other source after the Division made payment for the service;</p> <p>(ff) Failure to comply with the requirements listed in <a href="#">OAR 410-120-1280 (Billing)</a>.</p> <p>(5) A provider excluded, suspended, or terminated from participation in a federal or state medical program, such as Medicare or Medicaid, or whose license to practice is suspended or revoked by a state licensing board may not submit claims for payment, either personally or through claims submitted by any billing agent/service, billing provider, or other provider for any services or supplies provided under the medical assistance programs, except those services or supplies provided prior to the date of exclusion, suspension, or termination.</p> <p>(6) Providers may not submit claims for payment to the Division for any services or supplies provided by an individual or provider entity that is excluded, suspended, or terminated from participation in a federal or state medical program or whose license to practice is suspended or revoked by a state licensing board, except for those services or supplies provided prior to the date of exclusion, suspension, or termination.</p> <p>(7) When the provisions of sections (5) or (6) of this rule are violated, the Division may suspend or terminate the billing provider or any individual performing provider within said organization who is responsible for the violation.</p> <p>Credits</p> <p>Statutory/Other Authority: <a href="#">ORS 413.042</a></p> <p>Statutes/Other Implemented: 414.025, 414.065</p> <p>History: AFS 47-1982, f. 4-30-82 &amp; AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 42-1983, f. 9-2-83, ef. 10-1-83; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0095; HR 32-1993, f. &amp; cert. ef. 11-1-93, Renumbered from 410-120-0600; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 61-2013, f. 10-31-13, cert. ef. 11-1-13; DMAP 78-2018, f. 06/27/2018, cert. ef. 07/01/2018; DMAP 31-2023, minor correction f. &amp; cert. ef. 04/28/2023.</p> |

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|  | <p><b>OAR 410-120-1460 - Type and Conditions of Sanction</b></p> <p>(1) The Office of Medical Assistance Programs (OMAP) may impose mandatory Sanctions on a Provider pursuant to OAR 410-120-1400(3), in which case:</p> <p>(a) The Provider will be either Terminated or Suspended from participation in Oregon's medical assistance programs;</p> <p>(b) If Suspended, the minimum duration of Suspension will be determined by the Secretary of the Department of Health and Human Services (DHHS), under the provisions of 42 CFR Parts 420, 455, 1001, or 1002. The State may suspend a Provider from participation in Oregon's medical assistance programs longer than the minimum Suspension determined by the DHHS Secretary.</p> <p>(2) OMAP may impose the following discretionary Sanctions on a Provider pursuant to OAR 410-120-1400(4):</p> <p>(a) The Provider may be Terminated from participation in Oregon's medical assistance programs;</p> <p>(b) The Provider may be Suspended from participation in Oregon's medical assistance programs for a specified length of time, or until specified conditions for reinstatement are met and approved by OMAP;</p> <p>(c) OMAP may withhold payments to a Provider;</p> <p>(d) The Provider may be required to attend Provider education sessions at the expense of the Sanctioned Provider;</p> <p>(e) OMAP may require that payment for certain services are made only after OMAP has reviewed documentation supporting the services;</p> <p>(f) OMAP may recover investigative and legal costs;</p> <p>(g) OMAP may provide for reduction of any amount otherwise due the Provider; and the reduction may be up to three times the amount a Provider sought to collect from a Client in violation of OAR 410-120-1280;</p> <p>(h) Any other Sanctions reasonably designed to remedy or compel future compliances with federal, state or OMAP regulations.</p> <p>(3) OMAP will consider the following factors in determining the Sanction(s) to be imposed (this list includes but is not limited to these factors):</p> <p>(a) Seriousness of the offense(s);</p> <p>(b) Extent of violations by the Provider;</p> <p>(c) History of prior violations by the Provider;</p> <p>(d) Prior imposition of Sanctions;</p> <p>(e) Prior Provider education;</p> <p>(f) Provider willingness to comply with program rules;</p> <p>(g) Actions taken or recommended by licensing boards or a Quality Improvement Organization (QIO); and</p> <p>(h) Adverse impact on the health of OMAP Clients living in the Provider's service area.</p> <p>(4) When a Provider fails to meet one or more of the requirements identified in this rule OMAP, at its sole discretion, may immediately suspend the Provider's OMAP assigned billing number to prevent public harm or</p> |
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|  | <p>inappropriate expenditure of public funds:</p> <p>(a) The Provider subject to immediate Suspension is entitled to a contested case hearing as outlined in 410-120-1600 through 410-120-1700 to determine whether the Provider's OMAP assigned number will be revoked;</p> <p>(b) The notice requirements described in section (5) of this rule do not preclude immediate suspension at OMAP's sole discretion to prevent public harm or inappropriate expenditure of public funds. Suspension may be invoked immediately while the notice and contested case hearing rights are exercised.</p> <p>(5) If OMAP decides to Sanction a Provider, OMAP will notify the Provider by certified mail or personal delivery service of the intent to Sanction. The notice of immediate or proposed Sanction will identify:</p> <p>(a) The factual basis used to determine the alleged deficiencies;</p> <p>(b) Explanation of actions expected of the Provider;</p> <p>(c) Explanation of subsequent actions OMAP intends to take;</p> <p>(d) The Provider's right to dispute OMAP's allegations, and submit evidence to support the Provider's position; and</p> <p>(e) The Provider's right to appeal OMAP's proposed actions pursuant to OARs 410-120-1560 through 410-120-1700.</p> <p>(6) If OMAP makes a final decision to Sanction a Provider, OMAP will notify the Provider in writing at least 15 days before the effective date of action, except in the case of immediate suspension to avoid public harm or inappropriate expenditure of funds.</p> <p>(7) The Provider may appeal OMAP's immediate or proposed Sanction(s) or other action(s) the Department intends to take, including but not limited to the following list. The Provider must appeal these actions separately from any appeal of audit findings and overpayments:</p> <p>(a) Termination or Suspension from participation in the Medicaid-funded medical assistance programs;</p> <p>(b) Termination or Suspension from participation in OMAP's state-funded programs;</p> <p>(c) Revocation of the Provider's OMAP assigned Provider number.</p> <p>(8) Other provisions:</p> <p>(a) When a Provider has been Sanctioned, all other Provider entities in which the Provider has ownership (five percent or greater) or control of, may also be Sanctioned;</p> <p>(b) When a Provider has been Sanctioned, OMAP may notify the applicable professional society, board of registration or licensure, federal or state agencies, Oregon Health Plan Prepaid Health Plans and the National Practitioner Data Base of the findings and the Sanctions imposed;</p> <p>(c) At the discretion of OMAP, Providers who have previously been Terminated or Suspended may or may not be re-enrolled as OMAP Providers;</p> <p>(d) Nothing in this rule prevents the Department from simultaneously seeking monetary recovery and imposing Sanctions against the Provider;</p> <p>(e) If OMAP discovers continued improper billing practices from a Provider who, after having been previously warned in writing by OMAP or the Department of Justice about improper billing practices and has had an opportunity for a contested case hearing, that Provider will be liable to OMAP for up to triple the amount of OMAP's established overpayment received as a result of such violation.</p> <p><b>History:</b> PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. &amp; ef. 7-1-76; PWC 812, f. &amp; ef. 10-1-76; AFS 5-1981, f. 1-23-81, ef. 3-1-81; Renumbered from 461-013-0050, AFS 47-1982, f. 4-30-82 &amp; AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS</p> |
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|                 | <p>branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 42-1983, f. 9-2-83, ef. 10-1-83; AFS 24-1985, f. 4-24-85, cert. ef. 6-1-85; AFS 33-1986, f. 4-11-86, ef. 6-1-86; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0095 &amp; 461-013-0140; HR 19-1990, f. &amp; cert. ef. 7-9-90; HR 41-1991, f. &amp; cert. ef. 10-1-91; HR 32-1993, f. &amp; cert. ef. 11-1-93, Renumbered from 410-120-0260 &amp; 410-120-0660; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06</p> <p><b>OAR 410-120-1510 - Fraud and Abuse</b></p> <p>(1) This rule sets forth requirements for reporting, detecting and investigating fraud and abuse. The terms fraud and abuse are defined in <a href="#">OAR 410-120-0000</a>. For the purpose of these rules, the following definitions apply:</p> <p>(a) “Credible allegation of fraud” means an allegation of fraud, that has been verified by the state and has indicia of reliability that comes from any source as defined in <a href="#">42 CFR 455.2</a>;</p> <p>(b) “Conviction” or “convicted” means that a judgment of conviction has been entered by a federal, state, or local court regardless of whether an appeal from that judgment is pending;</p> <p>(c) “Exclusion” means that the Authority or the Department of Human Services (Department) shall not reimburse a specific provider who has defrauded or abused the Authority or Department for items or services which that provider furnished;</p> <p>(d) “Prohibited kickback relationships” means remuneration or payment practices that may result in federal civil penalties or exclusion for violation of <a href="#">42 CFR 1001.951</a>;</p> <p>(e) “Suspension” means the Authority or Department shall not reimburse a specified provider who has been convicted of a program-related offense in a federal, state, or local court for items or services which that provider furnished.</p> <p>(2) Cases involving one or more of the following situations shall constitute sufficient grounds for a provider fraud referral:</p> <p>(a) Billing for services, supplies, or equipment that are not provided to or used for Medicaid patients;</p> <p>(b) Billing for supplies or equipment that are clearly unsuitable for the patient's needs or are so lacking in quality or sufficiency for the purpose as to be virtually worthless;</p> <p>(c) Claiming costs for non-covered or non-chargeable services, supplies, or equipment disguised as covered items;</p> <p>(d) Materially misrepresenting dates and descriptions of services provided, and the identity of the individual who provided the services or of the recipient of the services;</p> <p>(e) Duplicate billing of the Medicaid program or of the recipient that appears to be a deliberate attempt to obtain additional reimbursement; and</p> <p>(f) Arrangements by providers with employees, independent contractors, suppliers, and other various devices such as commissions and fee splitting that appear to be designed primarily to obtain or conceal illegal payments or additional reimbursement from Medicaid.</p> <p>(3) The provider shall promptly refer all suspected fraud and abuse, including fraud or abuse by its employees or in the Division administration, to the Medicaid Fraud Control Unit (MFCU) of the Department of Justice or to the Department's Provider Audit Unit (PAU). Contact information may be found online at: <a href="http://www.oregon.gov/OHA/HSD/OHP//Pages/Policy-General-Rules.aspx">http://www.oregon.gov/OHA/HSD/OHP//Pages/Policy-General-Rules.aspx</a>.</p> <p>(4) If the provider is aware of suspected fraud or abuse by an Authority or Department client, the provider shall report the incident to the Department's Fraud Investigations Unit (FIU). Contact information may be found online at <a href="http://www.oregon.gov/OHA/HSD/OHP//Pages/Policy-General-Rules.aspx">http://www.oregon.gov/OHA/HSD/OHP//Pages/Policy-General-Rules.aspx</a>.</p> <p>(5) The provider shall permit the MFCU, Authority, Department, or law enforcement entity, together or separately, to inspect, copy, evaluate, or audit books, records, documents, files, accounts, and facilities without charge, as required to investigate an incident of fraud or abuse. When a provider fails to provide immediate access to records, Medicaid payments may be withheld or suspended.</p> <p>(6) Providers and their fiscal agents shall disclose ownership and control information and disclose information on a provider's owners and other persons convicted of criminal offenses against Medicare, Medicaid, CHIP, or the Title XX services program. Such disclosure and reporting is made a part of the provider enrollment agreement, and the provider shall update that information with an amended provider enrollment agreement if any of the information materially changes. The Authority or Department shall use that information to meet the requirements of <a href="#">42 CFR 455.100</a> to <a href="#">455.106</a>, and this rule shall be construed in a manner that is consistent with the Authority or Department acting in compliance with those federal requirements.</p> <p>(7) The Authority or Department may share information for health oversight purposes with the MFCU and other federal or state health oversight authorities.</p> <p>(8) The Authority or Department may suspend payments in whole or part in a suspected case of fraud or abuse; or where there exists a credible allegation of fraud or abuse presented to the Authority, the Department, or law enforcement entity; or where there is a pending investigation or conclusion of legal proceedings related to the provider's alleged fraud or abuse.</p> <p>(9) The Authority or Department may take the actions necessary to investigate and respond to credible allegations of fraud and abuse, including but not limited to suspending or terminating the provider from participation in the medical assistance programs, withholding payments or seeking recovery of payments made to the provider, or imposing other sanctions provided under state law or regulations. These actions by the Authority or Department may be reported to CMS, or other federal or state entities as appropriate.</p> <p>(10) The Authority or Department shall not pay for covered services provided by persons who are currently suspended, debarred, or otherwise excluded from participating in Medicaid, Medicare, CHIP, or who have been convicted of a felony or misdemeanor related to a crime or violation of Title XVIII, XIX, XXI, or XX of the Social Security Act or related laws.</p> <p><b>Credits</b></p> <p>Statutory/Other Authority: <a href="#">ORS 413.042</a></p> <p>Statutes/Other Implemented: <a href="#">ORS 414.025</a>, <a href="#">414.065</a></p> <p>History: OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 40-2015, f. &amp; cert. ef. 7-1-15; DMAP 34-2018, minor correction f. &amp; cert. ef. 05/25/2018.</p> |

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|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                 | None cited.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                 | <p>Title 51 Labor and Employment; Unlawful Discrimination<br/>Chapter 659A- Unlawful Discrimination in Employment, Public Accommodations and Real Property Transactions; Administrative and Civil Enforcement<br/>Whistleblowing<br/>(Disclosures by Employee of Violation of State or Federal Law)<br/>ORS § 659A.199</p> <p><b>659A.199 - Prohibited conduct by employer.</b><br/>(1) It is an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has in good faith reported information that the employee believes is evidence of a violation of a state or federal law, rule or regulation.<br/>(2) The remedies provided by this chapter are in addition to any common law remedy or other remedy that may be available to an employee for the conduct constituting a violation of this section.</p> <p><i>Credits</i></p> <p>Added by <a href="#">Laws 2009, c. 524, § 2</a>, eff. Jan. 1, 2010</p> <p>Title 51 Labor and Employment; Unlawful Discrimination<br/>Chapter 659A- Unlawful Discrimination in Employment, Public Accommodations and Real Property Transactions; Administrative and Civil Enforcement<br/>Whistleblowing<br/>(Disclosures by Public Employees)<br/><b>ORS 659A.200. Definitions</b> for ORS 659A.200 to 659A.224.<br/>As used in <a href="#">ORS 659A.200</a> to <a href="#">659A.224</a>:<br/>O.R.S. § 659A.200<br/>Formerly cited as OR ST § 659.505<br/><b>659A.200. Definitions</b><br/><a href="#">Currentness</a><br/>As used in ORS 659A.200 to <a href="#">659A.224</a>:<br/>(1) “Disciplinary action” includes but is not limited to any discrimination, dismissal, demotion, transfer, reassignment, supervisory reprimand, warning of possible dismissal or withholding of work, whether or not the action affects or will affect employee compensation.<br/>(2) “Employee” means a person:<br/>(a) Employed by or under contract with the state or any agency of or political subdivision in the state;<br/>(b) Employed by or under contract with any person authorized to act on behalf of the state, or agency of the state or subdivision in the state, with respect to control, management or supervision of any employee;<br/>(c) Employed by the public corporation created under <a href="#">ORS 656.751</a>;<br/>(d) Employed by a contractor who performs services for the state, agency or subdivision, other than employees of a contractor under contract to construct a public improvement;<br/>(e) Employed by or under contract with any person authorized by contract to act on behalf of the state, agency or subdivision;<br/>(f) Employed by a nonprofit organization; or<br/>(g) Serving as a member of a board of directors of a nonprofit organization who is not otherwise considered an employee.<br/>(3) “Information” includes public and private records, documents and electronically stored data.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(4) “Knowledge” means actual knowledge.</p> <p>(5) “Nonprofit organization” or “nonprofit” means an organization or group of organizations that:</p> <p>(a) Receives public funds by way of grant or contract; and</p> <p>(b) Is exempt from income tax under <a href="#">section 501(c)(3) of the Internal Revenue Code.1</a></p> <p>(6) “Public employer” means:</p> <p>(a) The state or any agency of or political subdivision in the state;</p> <p>(b) Any person authorized to act on behalf of the state, or any agency of or political subdivision in the state, with respect to control, management or supervision of any employee; or</p> <p>(c) An employer who employs an employee described in subsection (2)(a) to (e) of this section.</p> <p>(7) “School” means a common school district, a union high school district, an education service district, a public charter school, a private school providing instruction to any grade from kindergarten through grade 12 or a community college district.</p> <p>(8) “School services” means any of the following services:</p> <p>(a) Custodial or janitorial services;</p> <p>(b) Nutrition services;</p> <p>(c) Transportation services; or</p> <p>(d) Any other education services that are customarily performed by school employees.</p> <p>(9) “School services employee” means a person employed by a school services employer to provide school services to a school.</p> <p>(10) “School services employer” means a private employer that enters into a contract with a school to provide school services to the school.</p> <p><b>Credits</b></p> <p>Formerly 659.505. Amended by <a href="#">Laws 2014, c. 78, § 2</a>, eff. March 19, 2014; <a href="#">Laws 2015, c. 3, § 49</a>, eff. March 6, 2015, operative June 30, 2015; <a href="#">Laws 2016, c. 73, § 3</a>, eff. Jan. 1, 2017; <a href="#">Laws 2020, c. 4 (3rd Sp. Sess.), § 4</a>, eff. Dec. 23, 2020.</p> <p style="text-align: center;"><b>ORS 659A.203. - Prohibited conduct by public employer.</b></p> <p style="text-align: center;"><b>659A.203 Prohibited conduct by public employer.</b></p> <p style="text-align: center;"><b>659A.203. Public employers; prohibited employment practices; penalty</b></p> <p style="text-align: center;"><a href="#">Currentness</a></p> <p style="text-align: center;">&lt;Text subject to final change by the Oregon Office of the Legislative Counsel.&gt;</p> <p>(1) Subject to <a href="#">ORS 659A.206</a>, except as provided in <a href="#">ORS 659A.200</a> to <a href="#">659A.224</a>, it is an unlawful employment practice for any public or nonprofit employer to:</p> <p>(a) Prohibit any employee from discussing, either specifically or generally with any member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision in the state or any elected auditor of a city, county or metropolitan service district, the activities of:</p> <p>(A) The state or any agency of or political subdivision in the state; or</p> <p>(B) Any person authorized to act on behalf of the state or any agency of or political subdivision in the state.</p> <p>(b) Prohibit any employee from disclosing, or take or threaten to take disciplinary action against an employee for the disclosure of any information that the employee reasonably believes is evidence of:</p> <p>(A) A violation of any federal, state or local law, rule or regulation by the public or nonprofit employer;</p> <p>(B) Mismanagement, gross waste of funds or abuse of authority or substantial and specific danger to public health and safety resulting from action of the public or nonprofit employer; or</p> <p>(C) Subject to <a href="#">ORS 659A.212 (2)</a>, the fact that a person receiving services, benefits or assistance from the state or agency or subdivision, is subject to a felony or misdemeanor warrant for arrest issued by this state, any other state, the federal government, or any territory, commonwealth or governmental instrumentality of the United States.</p> <p>(c) Require any employee to give notice prior to making any disclosure or engaging in discussion described in this section, except as allowed in <a href="#">ORS 659A.206 (1)</a>.</p> <p>(d) Discourage, restrain, dissuade, coerce, prevent or otherwise interfere with disclosure or discussions described in this section.</p> <p>(2) A public or nonprofit employer may not invoke or impose any disciplinary action against an employee for employee activity described in subsection (1) of this section or <a href="#">ORS 659A.212</a>.</p> <p>(3) It is an unlawful employment practice for any school services employer to invoke or impose any disciplinary action against a school services employee for reporting or filing a complaint alleging a violation of any law, regulation or standard pertaining to the COVID-19 pandemic.</p> <p>(4) The remedies provided by this section are in addition to any remedy provided to an employee under <a href="#">ORS 659A.199</a> or other remedy that may be available to an employee for the conduct alleged as a violation of this section.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(5) A violation of this section is a Class A misdemeanor.</p> <p><i>Credits</i></p> <p>Formerly 659.510. Amended by <a href="#">Laws 2010, c. 24 (1st Sp. Sess.), § 1</a>, eff. March 4, 2010; <a href="#">Laws 2016, c. 73, § 4</a>, eff. Jan. 1, 2017; <a href="#">Laws 2020, c. 4 (3rd Sp. Sess.), § 5</a>, eff. Dec. 23, 2020.</p> <p><b>ORS § 659A.230 - Discrimination for initiating or aiding in criminal or civil proceedings prohibited; remedies not exclusive.</b></p> <p>(1) It is an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has in good faith reported criminal activity by any person, has in good faith caused a complainant's information or complaint to be filed against any person, has in good faith cooperated with any law enforcement agency conducting a criminal investigation, has in good faith brought a civil proceeding against an employer or has testified in good faith at a civil proceeding or criminal trial.</p> <p>(2) For the purposes of this section, "complainant's information" and "complaint" have the meanings given those terms in <a href="#">ORS 131.005</a>.</p> <p>(3) The remedies provided by this chapter are in addition to any common law remedy or other remedy that may be available to an employee for the conduct constituting a violation of this section.</p> <p> <b>History:</b> Formerly 659.550</p> <p><b>ORS 659A.233. - Discrimination for reporting certain violations or testifying at unemployment compensation hearing prohibited.</b></p> <p>It is an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has in good faith reported possible violations of ORS chapter 441 or of <a href="#">ORS 443.400</a> to <a href="#">443.455</a> or has testified in good faith at an unemployment compensation hearing or other hearing conducted pursuant to ORS chapter 657.</p> <p> <b>History:</b> Formerly 659.035</p> <p>ORS § 441.044 - <i>Rules concerning complaints about care; reporting by employee.</i></p> <p><b>441.044 Rules Concerning Complaints About Care; Reporting by Employee.</b></p> <hr/> <p>(1) Rules adopted pursuant to <a href="#">ORS 441.025</a> shall include procedures for the filing of complaints as to the standard of care in any health care facility and provide for the confidentiality of the identity of any complainant.</p> <p>(2) A health care facility, or person acting in the interest of the facility, may not take any disciplinary or other adverse action against any employee who in good faith brings evidence of inappropriate care or any other violation of law or rules to the attention of the proper authority solely because of the employee's action as described in this subsection.</p> <p>(3) Any employee who has knowledge of inappropriate care or any other violation of law or rules shall utilize established reporting procedures of the health care facility administration before notifying the Department of Human Services, Oregon Health Authority or other state agency of the alleged violation, unless the employee believes that patient health or safety is in immediate jeopardy or the employee makes the report to the department or the authority under the confidentiality provisions of subsection (1) of this section.</p> <p>(4) The protection of health care facility employees under subsection (2) of this section shall commence with the reporting of the alleged violation by the employee to the administration of the health care facility or to the department, authority or other state agency pursuant to subsection (3) of this section.</p> <p>(5) Any person suffering loss or damage due to any violation of subsection (2) of this section has a right of action for damages in addition to other appropriate remedy.</p> <p>(6) The provisions of this section do not apply to a nursing staff, as defined in <a href="#">ORS 441.179</a>, who claims to be aggrieved by a violation of <a href="#">ORS 441.181</a> committed by a hospital.</p> <p>(7) Information obtained by the department or the authority during an investigation of a complaint or reported violation under this section is confidential and not subject to public disclosure under <a href="#">ORS 192.311</a> to <a href="#">192.478</a>. Upon the conclusion of the investigation, the department or the authority may publicly release a report of the department's or the authority's findings but may not include information in the report that could be used to identify the complainant or any patient at the health care facility. The department or the authority may use any information obtained during an investigation in an administrative or judicial proceeding concerning the licensing of a health care facility, and may report information obtained during an investigation to a health professional regulatory board as defined in <a href="#">ORS 676.160</a>, the Long Term Care Administrators Board, the Board of Licensed Dietitians or the Behavior Analysis Regulatory Board as that information pertains to a licensee of the board.</p> |

| State /Citation                                                                                                   | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                                                                                                                   | <p><i>Credits</i></p> <p>Renumbered from 441.057 in 2019 by the Legislative Counsel.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p><i>Pennsylvania</i></p> <p>43 P.S. §§ 1421-1428</p> <p>62 P.S. §§ 1407 – 1408</p> <p>55 Pa. Code § 1101.75</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><i>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</i><br/><a href="https://www.dhs.pa.gov/about/Fraud-And-Abuse/Pages/default.aspx">https://www.dhs.pa.gov/about/Fraud-And-Abuse/Pages/default.aspx</a><br/><a href="https://www.dhs.pa.gov/about/Fraud-And-Abuse/Pages/MA-Fraud-and-Abuse---General-Information.aspx">https://www.dhs.pa.gov/about/Fraud-And-Abuse/Pages/MA-Fraud-and-Abuse---General-Information.aspx</a><br/><a href="https://www.dhs.pa.gov/contact/DHS-Offices/Pages/OMAP-Bureau%20of%20Program%20Integrity.aspx">https://www.dhs.pa.gov/contact/DHS-Offices/Pages/OMAP-Bureau%20of%20Program%20Integrity.aspx</a></p> <p><b>PA Medical Assistance Bulletin #99-07-13</b></p> <ul style="list-style-type: none"><li><i>State Bulletin/Notice</i> - MA Bulletin 99-07-13 - Updated Regarding False Claims Provisions of Deficit Reduction Act of 2005 - Employee Education About False Claims Recovery</li></ul> <p><b>PA ST 62 P.S. § 1407</b><br/><b>62 P.S. § 1407 - Provider prohibited acts, criminal penalties and civil remedies</b><br/>(a) It shall be unlawful for any person to:</p> <p>(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.</p> <p>(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.</p> <p>(3) Submit a duplicate claim for services, supplies or equipment for which the provider has already received or claimed reimbursement from any source.</p> <p>(4) Submit a claim for services, supplies or equipment which were not rendered to a recipient.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(9) Submit a claim for a service or item which was not rendered by the provider.</p> <p>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>(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.</p> <p>(12) Enter into an agreement, combination or conspiracy to obtain or aid another to obtain reimbursement or payments for which there is not entitlement.</p> <p>(13) Make a false statement in the application for enrollment as a provider.</p> <p>(14) Commit any of the prohibited acts described in section 1403(d)(1), (2), (4) and (5) .</p> <p>(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 <i>42 Pa.C.S. § 5552(d)</i> (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.</p> <p>(2) In addition to the penalties provided under subsection (b), the trial court shall order any person convicted under subsection (a):</p> <p>(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;</p> <p>(ii) to pay an amount not to exceed threefold the amount of excess benefits or payments.</p> <p>(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.</p> <p>(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.</p> <p>(5) As used in this section the following words and phrases shall have the following meanings:</p> <p>"Conviction" means a verdict of guilty, a guilty plea, or a plea of nolo contendere in the trial court.</p> <p>"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.</p> <p>(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) , 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.</p> <p>(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.</p> <p>(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</p> |

| State /Citation                                                                             | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        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|                                                                                             | <p>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.</p> <p><b>History:</b> Act 1980-105 (H.B. 552), P.L. 493, § 3, approved July 10, 1980, eff. in 60 days.</p> <p><b>62 P.S. § 1408</b><br/><b>§ 1408. Other prohibited acts, criminal penalties and civil remedies</b><br/><u><b>Currentness</b></u></p> <p>(a) It shall be unlawful for any person to:</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(b)(1) Any person violating subsection (a)(1), (2) or (3) commits the grade of crime determined from the following schedule:</p> <table><tr><td>Amount of Benefit</td><td>Degree of Crime</td></tr><tr><td>\$3,000 or more</td><td>Felony of the third degree</td></tr><tr><td>\$1,500 to \$2,999</td><td>Misdemeanor of the first degree</td></tr><tr><td>\$1,000 to \$1,499</td><td>Misdemeanor of the second degree</td></tr><tr><td>\$999 and under or an attempt to commit any act prohibited in subsection (a)(1), (2) or (3)</td><td>Misdemeanor of the third degree</td></tr></table> <p>(1.1) Pursuant to <u><a href="#">42 Pa.C.S. § 1515(a)(7)</a></u> (relating to jurisdiction and venue), jurisdiction over cases graded a misdemeanor of the third degree under this section shall be vested in district justices.</p> <p>(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 <u><a href="#">18 Pa.C.S. § 1106(c)(2)</a></u> (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.</p> <p>(1.3) There shall be a five-year statute of limitations on all crimes enumerated in subsection (a).</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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).</p> <p>(6)④ 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</p> | 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 |
| Amount of Benefit                                                                           | Degree of Crime                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          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| \$3,000 or more                                                                             | Felony of the third degree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               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| \$1,500 to \$2,999                                                                          | Misdemeanor of the first degree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          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| \$1,000 to \$1,499                                                                          | Misdemeanor of the second degree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         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| \$999 and under or an attempt to commit any act prohibited in subsection (a)(1), (2) or (3) | Misdemeanor of the third degree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          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| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>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.</p> <p>(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.</p> <p>(d) The department is authorized to institute a civil suit to enforce any of the rights established by this section.</p> <p>Credits</p> <p><b>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 <a href="#">1994, June 16, P.L. 319, No. 49, § 13</a>, effective in 60 days.</b></p> <p><b>55 Pa. Code § 1101.75 -. Provider prohibited acts</b></p> <p>(a) An enrolled provider may not, either directly or indirectly, do any of the following acts:</p> <p>(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.</p> <p>(2) Knowingly submit false information to obtain authorization to furnish services or items under MA.</p> <p>(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.</p> <p>(4) Submit a duplicate claim for services or items for which the provider has already received or claimed reimbursement from a source.</p> <p>(5) Submit a claim for services or items which were not rendered by the provider or were not rendered to a recipient.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(9) Submit a claim for a service or item at a fee that is greater than the provider's charge to the general public.</p> <p>(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.</p> <p>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(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.</p> <p>(13) Make a false statement in the application for enrollment or reenrollment in the program.</p> <p>(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).</p> <p>(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).</p> <p><b>AUTHORITY:</b> The provisions of this § 1101.75 issued under sections 403(a) and (b), 441.1 and 1410 of the Public Welfare Code (<a href="#">62 P. S. §§ 403(a)</a>) and (b), 441.1 and 1410).</p> <p><b>SOURCE:</b> The provisions of this § 1101.75 adopted November 18, 1983, effective November 19, 1983, 13 Pa.B. 3653.</p> <p>NOTES: Cross References - This section cited in <a href="#">55 Pa. Code § 41.153</a> (relating to burden of proof and production); <a href="#">55 Pa. Code § 51.27</a> (relating to misuse and abuse of funds and damage of participants property); <a href="#">55 Pa. Code § 51.152</a> (relating to termination of provider agreement); <a href="#">55 Pa. Code § 1101.76</a> (relating to criminal penalties); <a href="#">55 Pa. Code § 1101.83</a> (relating to restitution and repayment); <a href="#">55 Pa. Code § 1101.84</a> (relating to provider right of appeal); and <a href="#">55 Pa. Code § 5221.43</a> (relating to quality assurance and utilization review).</p> |
|                 | Qui Tam Actions & Remedies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | Whistle-blower Protections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                 | <p><b>43 P.S. § 1421</b><br/>This act shall be known and may be cited as the Whistleblower Law.</p> <p><b>43 P.S. § 1422 - Definitions</b><br/>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:</p> <p>"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.</p> <p>"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.</p> <p>"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:</p> <p>(1) An individual.</p> <p>(2) A partnership.</p> <p>(3) An association.</p> <p>(4) A corporation for profit.</p> <p>(5) A corporation not for profit.</p>                                                                                                                                                                                                                                              |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                 | <p>"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.</p> <p>"PUBLIC BODY." All of the following:</p> <p>(1) A State officer, agency, department, division, bureau, board, commission, council, authority or other body in the executive branch of State government.</p> <p>(1.1) The General Assembly and its agencies.</p> <p>(2) A county, city, township, regional governing body, council, school district, special district or municipal corporation, or a board, department, commission, council or agency.</p> <p>(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.</p> <p>"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.</p> <p>"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.</p> <p>"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.</p> <p>📌<b>History:</b> Act 1986-169 (H.B. 284), P.L. 1559, § 2, approved Dec. 12, 1986, eff. in 60 days; <a href="#">Act 2014-87</a> (H.B. 118), P.L. 824, § 1, approved July 2, 2014, eff. in 60 days; <a href="#">Act 2014-88</a> (H.B. 185), P.L. 826, § 1, approved July 2, 2014, eff. in 60 days.</p> <p><b>43 P.S. § 1423 -Protection of employees</b></p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>📌<b>History:</b> Act 1986-169 (H.B. 284), P.L. 1559, § 3, approved Dec. 12, 1986, eff. in 60 days; <a href="#">Act 2014-87</a> (H.B. 118), P.L. 824, § 2, approved July 2, 2014, eff. in 60 days; <a href="#">Act 2014-88</a> (H.B. 185), P.L. 826, § 2, approved July 2, 2014, eff. in 60 days.</p> <p><b>43 P.S. § 1424 Remedies</b></p> <p>(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</p> |

| State /Citation                          | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                                          | <p>of the alleged violation.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p><b>History:</b> Act 1986-169 (H.B. 284), P.L. 1559, § 4, approved Dec. 12, 1986, eff. in 60 days.</p> <p><b>43 P.S. § 1425 - Enforcement</b></p> <p>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.</p> <p><b>History:</b> Act 1986-169 (H.B. 284), P.L. 1559, § 5, approved Dec. 12, 1986, eff. in 60 days; <a href="#">Act 2014-87</a> (H.B. 118), P.L. 824, § 3, approved July 2, 2014, eff. in 60 days.</p> <p><b>43 P.S. § 1426 - Penalties</b></p> <p>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.</p> <p><b>History:</b> Act 1986-169 (H.B. 284), P.L. 1559, § 6, approved Dec. 12, 1986, eff. in 60 days; <a href="#">Act 2014-87</a> (H.B. 118), P.L. 824, § 3, approved July 2, 2014, eff. in 60 days; <a href="#">Act 2014-88</a> (H.B. 185), P.L. 826, § 3, approved July 2, 2014, eff. in 60 days.</p> <p><b>43 P.S. § 1427 – Construction</b></p> <p>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.</p> <p><b>History:</b> Act 1986-169 (H.B. 284), P.L. 1559, § 7, approved Dec. 12, 1986, eff. in 60 days.</p> <p><b>43 P.S. § 1428 - Notice</b></p> <p>An employer shall post notices and use other appropriate means to notify employees and keep them informed of protections and obligations under this act.</p> <p><b>History:</b> Act 1986-169 (H.B. 284), P.L. 1559, § 8, approved Dec. 12, 1986, eff. in 60 days.</p> |
| <u>Rhode Island</u>                      | <b>Criminal and Civil Penalties for False Claims and Statements</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| R.I. Gen. Laws § 40-8.2-1 to § 40-8.2-23 | Other Helpful Information About Medicaid Fraud & Reporting Fraud<br><a href="http://www.dhs.ri.gov/Fraud/ReportFraud.php">http://www.dhs.ri.gov/Fraud/ReportFraud.php</a><br><a href="http://www.riag.ri.gov/CriminalUnit/MedicaidFraudPatientAbuseUnit.php">http://www.riag.ri.gov/CriminalUnit/MedicaidFraudPatientAbuseUnit.php</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| R.I. Gen. Laws § 28-5-7                  | R.I. Gen. Laws § 9-1.1-1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| R.I. Gen. Laws § 9-1.1-4(g) et seq.      | <b>State False Claims Act.</b><br><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/INDEX.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/INDEX.htm</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| R.I. Gen. Laws § 27-54.1-1 et seq        | R.I. Gen. Laws § 9-1.1-1<br><b>Name of act.</b><br><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-1.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-1.htm</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                          | R.I. Gen. Laws § 9-1.1-2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p><b>Definitions</b><br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-2.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-2.htm</a></p> <p>R.I. Gen. Laws § 9-1.1-3</p> <p><b>Liability for certain acts</b><br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-3.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-3.htm</a></p> <p>R.I. Gen. Laws § 27-54-1 et seq<br/>Insurance Fraud Prevention Act<br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE27/27-54/INDEX.HTM">http://webserver.rilin.state.ri.us/Statutes/TITLE27/27-54/INDEX.HTM</a></p> <p>R.I. Gen. Laws § 27-54.1-1 et seq<br/>Insurance Antifraud Act<br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE27/27-54.1/INDEX.HTM">http://webserver.rilin.state.ri.us/Statutes/TITLE27/27-54.1/INDEX.HTM</a></p> <p>R.I. Gen. Laws § 40-8.2-1<br/>"Rhode Island Medical Assistance Fraud Law".<br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/INDEX.HTM">http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/INDEX.HTM</a></p> <p>R.I. Gen. Laws § 40-8.2-3<br/><b>§ 40-8.2-3. Prohibited acts</b><br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/40-8.2-3.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/40-8.2-3.htm</a></p> <p>R.I. Gen. Laws § 40-8.2-7<br/><b>False statements made to gain certification</b><br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/40-8.2-7.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/40-8.2-7.htm</a></p> <p>R.I. Gen. Laws § 40-8.2-11<br/><b>Barring or suspending participation in program</b><br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/40-8.2-11.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/40-8.2-11.htm</a></p> <p>R.I. Gen. Laws § 40-6-15<br/>Fraudulently obtaining assistance<br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-6/40-6-15.HTM">http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-6/40-6-15.HTM</a></p> <p>R.I. Gen. Laws § 40-8.2-21<br/>Suspension of Payments to a Provider<br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/40-8.2-21.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/40-8.2-21.htm</a></p> <p>UNLICENSED HEALTH CARE PRACTICES<br/>R.I. Gen. Laws § 23-74-4<br/>Prohibited conduct<br/><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE23/23-74/23-74.4.HTM">http://webserver.rilin.state.ri.us/Statutes/TITLE23/23-74/23-74.4.HTM</a></p> <p><b><i>R.I. Gen. Laws § 27-54.1-1 – 54.1-6</i></b><br/>Anti-Fraud Act</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <a href="http://webserver.rilin.state.ri.us/Statutes/TITLE27/27-54.1/INDEX.HTM">http://webserver.rilin.state.ri.us/Statutes/TITLE27/27-54.1/INDEX.HTM</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                 | R.I. Gen. Laws § 9-1.1-4<br><b>Civil actions for false claims</b><br><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-4.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-4.htm</a><br><br>(b) <i>Actions by private persons.</i><br><br>R.I. Gen. Laws § 9-1.1-5<br><b>False Claims Procedure</b><br><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-5.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-5.htm</a><br><br>R.I. Gen. Laws § 40-8.2-5<br><b>Civil remedy</b><br><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/40-8.2-5.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE40/40-8.2/40-8.2-5.htm</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                 | THE STATE FALSE CLAIM ACT<br>R.I. Gen. Laws § 9-1.1-4(g)<br><b>Civil actions for false claims</b><br><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-4.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE9/9-1.1/9-1.1-4.htm</a><br><br>INSURANCE FRAUD PREVENTION ACT<br>R.I. Gen. Laws § 27-54-7<br><b>Whistleblower Protections</b><br><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE27/27-54/27-54-7.htm">http://webserver.rilin.state.ri.us/Statutes/TITLE27/27-54/27-54-7.htm</a><br><br>THE RHODE ISLAND WHISTLEBLOWERS' PROTECTION ACT<br>R.I. Gen. Laws § 28-50-3<br><b>Protection</b><br><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE28/28-50/28-50-3.HTM">http://webserver.rilin.state.ri.us/Statutes/TITLE28/28-50/28-50-3.HTM</a><br><br>FAIR EMPLOYMENT PRACTICES<br>R.I. Gen. Laws § 28-5-7<br><b>Unlawful employment practices</b><br><a href="http://webserver.rilin.state.ri.us/Statutes/title28/28-5/28-5-7.HTM">http://webserver.rilin.state.ri.us/Statutes/title28/28-5/28-5-7.HTM</a><br><br>R.I. Gen. Laws § 23-17.14-29<br><b>Whistleblowers Protection (Hospital Conversions Act)</b><br><a href="http://webserver.rilin.state.ri.us/Statutes/TITLE23/23-17.14/INDEX.HTM">http://webserver.rilin.state.ri.us/Statutes/TITLE23/23-17.14/INDEX.HTM</a><br><br>R.I. Gen. Laws § 27-18-45<br><b>Whistleblowers Protection (Accident and Sickness Insurance Policies)</b> |

| State /Citation       | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                       | <p><a href="http://webserver.rilin.state.ri.us/Statutes/title27/27-18/27-18-45.HTM">http://webserver.rilin.state.ri.us/Statutes/title27/27-18/27-18-45.HTM</a></p> <p>R.I. Gen. Laws § 27-19-37<br/><b>Whistleblowers Protection (Nonprofit Hospital Service Corporations)</b><br/><a href="http://webserver.rilin.state.ri.us/Statutes/title27/27-19/27-19-37.HTM">http://webserver.rilin.state.ri.us/Statutes/title27/27-19/27-19-37.HTM</a></p> <p>R.I. Gen. Laws § 27-20-32<br/><b>Whistleblowers Protection (Nonprofit Medical Service Corporations)</b><br/><a href="http://webserver.rilin.state.ri.us/Statutes/title27/27-20/27-20-32.HTM">http://webserver.rilin.state.ri.us/Statutes/title27/27-20/27-20-32.HTM</a></p> <p>R.I. Gen. Laws § 27-41-46<br/><b>Whistleblowers Protection (Health Maintenance Organizations)</b><br/><a href="http://webserver.rilin.state.ri.us/Statutes/title27/27-41/27-41-46.HTM">http://webserver.rilin.state.ri.us/Statutes/title27/27-41/27-41-46.HTM</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <u>South Carolina</u> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud:<br/><a href="http://www.scag.gov/medicaid-fraud">http://www.scag.gov/medicaid-fraud</a><br/><a href="https://www.scdhhs.gov/site-page/medicaid-fraud-costs-taxpayers-millions">https://www.scdhhs.gov/site-page/medicaid-fraud-costs-taxpayers-millions</a></p> <p>S.C. Code Ann. § 43-7-60<br/><b>False claim, statement, or representation by medical provider prohibited; violation is a misdemeanor; penalties.</b></p> <p>(A) For purposes of this section:</p> <p>(1) "provider" includes a person who provides goods, services, or assistance and who is entitled or claims to be entitled to receive reimbursement, payment, or benefits under the state's Medicaid program. "Provider" also includes a person acting as an employee, representative, or agent of the provider.</p> <p>(2) "false claim, statement, or representation" means a claim, statement, or representation made or presented in any form including, but not limited to, a claim, statement, or representation which is computer generated or transmitted or made, produced, or transmitted by an electronic means or device.</p> <p>(B) It is unlawful for a provider of medical assistance, goods, or services to knowingly and willfully make or cause to be made a false claim, statement, or representation of a material fact:</p> <p>(1) in an application or request, including an electronic or computer generated claim, for a benefit, payment, or reimbursement from a state or federal agency which administers or assists in the administration of the state's medical assistance or Medicaid program; or</p> <p>(2) on a report, certificate, or similar document, including an electronic or computer generated claim, submitted to a state or federal agency which administers or assists in the administration of the state's Medicaid program in order for a provider or facility to qualify or remain qualified under the state's Medicaid program to provide assistance, goods, or services, or receive reimbursement, payment, or benefit for this assistance, goods, or services.</p> <p>For purposes of this subsection, each false claim, representation, or statement constitutes a separate offense.</p> <p>(C) It is unlawful for a provider of medical assistance, goods, or services knowingly and willfully to conceal or fail to disclose any material fact, event, or transaction which affects the:</p> <p>(1) provider's initial or continued entitlement to payment, reimbursement, or benefits under the state's Medicaid plan; or</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>(2) amount of payment, reimbursement, or benefit to which the provider may be entitled for services, goods, or assistance rendered.</p> <p>For purposes of this subsection, each fact, event, or transaction concealed or not disclosed constitutes a separate offense.</p> <p>(D) A person who violates the provisions of this section is guilty of medical assistance provider fraud, a Class A misdemeanor and, upon conviction, must be imprisoned not more than three years and fined not more than one thousand dollars for each offense.</p> <p>(E) In addition to all other remedies provided by law, the Attorney General may bring an action to recover damages equal to three times the amount of an overstatement or overpayment and the court may impose a civil penalty of two thousand dollars for each false claim, representation, or overstatement made to a state or federal agency which administers funds under the state's Medicaid program. Upon a finding that the provider has violated a provision of this section, the state agency which administers the Medicaid program may impose other administrative sanctions against the provider authorized by law. A civil or criminal action brought under this section may be filed or brought in either the county where the false claim, statement, or representation originated or in the county in which the false claim, statement, or representation was received by the Health and Human Services Finance Commission or other agency of the State responsible for administering the state's Medicaid Program.</p> <p><b>History:</b> <a href="#"><i>1994 Act No. 468, § 1</i></a>, eff July 14, 1994.</p> <p>S.C. Code Ann. § 43-7-70</p> <p><b>False statement or representation on application for assistance prohibited; violation is a misdemeanor; penalties.</b></p> <p>(A)(1) It is unlawful for a person to knowingly and willfully to make or cause to be made a false statement or representation of material fact on an application for assistance, goods, or services under the state's Medicaid program when the false statement or representation is made for the purpose of determining the person's entitlement to assistance, goods, or services.</p> <p>(2) It is unlawful for any applicant, recipient, or other person acting on behalf of the applicant or recipient knowingly and willfully to conceal or fail to disclose any material fact affecting the applicant's or recipient's initial or continued entitlement to receive assistance, goods, or services under the state's Medicaid program.</p> <p>(3) It is unlawful for a person eligible to receive benefits, services, or goods under the Medicaid program to sell, lease, lend, or otherwise exchange rights, privileges, or benefits to another person.</p> <p>(B) A person who violates the provisions of this section is guilty of medical assistance recipient fraud, a Class A misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than one thousand dollars, or both.</p> <p><b>History:</b> <a href="#"><i>1994 Act No. 468, § 1</i></a>, eff July 14, 1994.</p> <p><b>S.C. Code Ann. § 43-7-80 -Provider required to keep separate accounts and records; violation is a misdemeanor; penalties.</b></p> <p>(A) A provider of medical assistance, goods, or services under the state's Medicaid program who is required by state or federal law, regulation, or written policy to maintain separate accounts for patient funds and accurate records of those funds must maintain separate accounts and records of the accounts. It is unlawful for a provider, or a person acting as the provider's agent or employee, to transfer, remove, or encumber or cause to be removed, transferred, or encumbered patient funds for a purpose other than as authorized. Repayment or retransfer of patient funds or satisfaction of an encumbrance on them is not a defense under this section and repayment, retransfer, or satisfaction is admissible as relevant evidence only at sentencing, if the provider is found guilty of a violation of this section.</p> <p>(B) A person who violates the provisions of this section is guilty of a Class A misdemeanor and, upon conviction, must be imprisoned not more than three years and fined not more than one thousand dollars.</p> <p>(C) In addition to all other remedies under this section, the Attorney General may bring an action to recover damages equal to five thousand dollars for each violation of this section. Upon a finding that a provider has violated a provision of this section, the state agency which administers the Medicaid program also may take other administrative action authorized under relevant state or federal laws.</p> <p><b>History:</b> <a href="#"><i>1994 Act No. 468, § 1</i></a>, eff July 14, 1994.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>S.C. Code Ann. § 38-55-170 - <b>Presenting false claims for payment.</b></p> <p>A person who knowingly causes to be presented a false claim for payment to an insurer transacting business in this State, to a health maintenance organization transacting business in this State, or to any person, including the State of South Carolina, providing benefits for health care in this State, whether these benefits are administered directly or through a third person, or who knowingly assists, solicits, or conspires with another to present a false claim for payment as described above, is guilty of a:</p> <p>(1) felony if the amount of the claim is ten thousand dollars or more. Upon conviction, the person must be imprisoned not more than ten years or fined not more than five thousand dollars, or both;</p> <p>(2) felony if the amount of the claim is more than two thousand dollars but less than ten thousand dollars. Upon conviction, the person must be fined in the discretion of the court or imprisoned not more than five years, or both;</p> <p>(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of <a href="#">Sections 22-3-540</a>, <a href="#">22-3-545</a>, <a href="#">22-3-550</a>, and <a href="#">14-25-65</a>, if the amount of the claim is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.</p> <p><b>History:</b> Former 1976 Code <a href="#">§ 38-55-170</a> [1962 Code § 37-1217; 1964 (53) 2293] recodified as <a href="#">§ 38-57-170</a> by 1987 Act No. 155, § 1; Former 1976 Code <a href="#">§ 38-9-310</a> [1947 (45) 322; 1952 Code § 37-167; 1962 Code § 37-167; 1986 Act No. 410] recodified as <a href="#">§ 38-55-170</a> by 1987 Act No. 155, § 1; 1989 Act No. 148, § 23; <a href="#">1993 Act No. 73, § 1</a>; <a href="#">1993 Act No. 184, § 121</a>; <a href="#">2010 Act No. 273, § 16.Z</a>, eff June 2, 2010.</p> <p>ADMINISTRATIVE SANCTIONS AGAINST MEDICAID PROVIDERS<br/>S.C. Code Regs. 126-403<br/><b>Grounds for Sanction.</b></p> <p>The grounds for sanctioning providers shall include, but not be limited to, the following:</p> <p>A. Presenting or causing to be presented for payment any false or fraudulent claim for services or merchandise.</p> <p>B. Submitting or causing to be submitted false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled, including charges in excess of the fee schedule or usual and customary charges.</p> <p>C. Submitting or causing to be submitted false information for the purpose of meeting prior authorization requirements.</p> <p>D. Failure to disclose or make available to the Single State Agency or its authorized agent records of services provided to Medicaid recipients and records of payment made therefore.</p> <p>E. Continuing a course of conduct deemed abusive of the Medicaid Program after receiving written notice from the Single State Agency that said conduct must cease, provided that the written notice shall specify the practices deemed abusive.</p> <p>F. Breach of the terms of the Medicaid provider agreement or failure to comply with the terms of provider certification on the Medicaid claim form.</p> <p>G. Over-utilizing the Medicaid Program by including, furnishing, or otherwise causing a recipient to receive service(s) or merchandise not otherwise required by the recipient.</p> <p>H. Rebating or accepting a fee or portion of a fee or charge for a Medical Patient referral.</p> <p>I. Submission of a false or fraudulent application for provider status.</p> <p>J. Conviction against a provider for a criminal offense related to his or her involvement in the Medicaid or Medicare Program.</p> |



| State /Citation                                                 | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                                                                 | K. Failure to meet standards required by State or Federal law for participation (i.e., failed to meet the licensing requirements constituting minimum qualification).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                                                                 | L. Exclusion from Medicare because of fraudulent or abusive practices (i.e., terminated or suspended from participation in the Medicare Program under 42 CFR § 420, Part B.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                                                                 | M. Failure to correct deficiencies in provider operations after receiving written notice of these deficiencies from the Single State Agency.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                                                                 | N. Failure to repay or make arrangements for the repayment of identified overpayments or otherwise erroneous payments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                                                                 | Qui Tam Actions & Remedies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                 | SC. Code Ann. § 8-27-20<br><b>No retaliation for filing report of wrongdoing; disciplinary action for unfounded or bad faith report or mere technical violation; reward for report resulting in savings; State Employee Suggestion Program not superseded.</b><br>[*Government Employees Only]<br><br>(B) If the employee's report results in a saving of any public money from the abuses described in this chapter, twenty-five percent of the estimated net savings resulting from the first year of implementation of the employee's report, but not more than two thousand dollars, must be rewarded to the employee by the public body as determined by the State Budget and Control Board. This chapter does not supersede the State Employee Suggestion Program. For employees of state agencies participating in the program, items that they identify involving wrongdoing must be referred as a suggestion to the program by the employee. An employee is entitled to only one reward either under this section or under the program, at the employee's option.<br>📌 <b>History:</b> 1988 Act No. 354, eff March 14, 1988; <a href="#">1993 Act No. 164</a> , Part II, § 37B, eff June 21, 1993, and applies with respect to any personnel actions taken after that date. |
| <i>South Dakota</i><br>S.D. Codified Laws § 22-45-2 to 22-45-11 | Whistle-blower Protections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                 | SC. Code Ann. § 8-27-20<br><b>No retaliation for filing report of wrongdoing; disciplinary action for unfounded or bad faith report or mere technical violation; reward for report resulting in savings; State Employee Suggestion Program not superseded.</b><br>[*Government Employees Only]<br>(A) No public body may dismiss, suspend from employment, demote, or decrease the compensation of an employee of a public body because the employee files a report with an appropriate authority of wrongdoing. If the appropriate authority determines the employee's report is unfounded, or amounts to a mere technical violation, and is not made in good faith, the public body may take disciplinary action including termination. Any public body covered by this chapter may impose disciplinary sanctions, in accordance with its internal disciplinary procedures, against any of its direct line supervisory employees who retaliate against another employee for having filed a good faith report under this chapter.<br>📌 <b>History:</b> 1988 Act No. 354, eff March 14, 1988; <a href="#">1993 Act No. 164</a> , Part II, § 37B, eff June 21, 1993, and applies with respect to any personnel actions taken after that date.                                         |
|                                                                 | Criminal and Civil Penalties for False Claims and Statements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                                                                 | <i>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</i><br><a href="https://atg.sd.gov/OurOffice/Departments/MFCU/default.aspx">https://atg.sd.gov/OurOffice/Departments/MFCU/default.aspx</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                                 | <b>S.D. Codified Laws § 22-45-2</b><br><b>False claim -- False statement to obtain authorization -- False statement for use by another to obtain good or service -- Penalty</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                                 | A person commits an offense if he:<br><br>(1) Makes or causes to be made a claim, knowing the claim to be false, in whole or in part, by commission or omission; or<br><br>(2) Makes or causes to be made a statement or representation for use in obtaining or seeking to obtain authorization to provide a good or a service, knowing the statement or representation to be false, in whole or in part, by commission or omission; or                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>(3) Makes or causes to be made a statement or representation for use by another in obtaining a good or a service under the program, knowing the statement or representation to be false, in whole or in part, by commission or omission; or</p> <p>(4) Makes or causes to be made a statement or representation for use in qualifying as a provider of a good or a service under the program, knowing the statement or representation to be false, in whole or in part, by commission or omission.</p> <p>A violation of this section is a Class 5 felony.<br/>📖<b>History:</b> Source: SL 1986, ch 187, § 2.</p> <p><i>S.D. Codified Laws § 22-45-3</i><br/>Commission of perjury in application, report, or invoice -- Penalty</p> <p>Each application to participate as a provider in the program, each report stating income or expense upon which rates of payment are or may be based, and each invoice for payment for a good or a service provided to the recipient shall contain a statement that all matters stated therein are true and accurate, signed by the individual responsible for the provider, under the penalty of perjury. A person commits perjury if he signs or submits, or causes to be signed or submitted, such a statement, and he knows, or should have known, that the application, report or invoice containing information is false, in whole or in part, by commission or omission. A violation of this section is a Class 5 felony.<br/><b>History:</b> Source: SL 1986, ch 187, § 3.</p> <p><i>S.D. Codified Laws § 22-45-4</i><br/><b>Solicitation or acceptance of value in connection with purchase or lease of goods for which payment made under program -- Making payment in connection with such sale or lease -- Payment for referral -- Penalty.</b></p> <p>A person commits an offense if he:</p> <p>(1) Acting on behalf of a provider, purchases or leases goods, services, materials or supplies for which payment may be made, in whole or in part, under the program and solicits or accepts anything of additional value in return for or in connection with such purchase or lease; or</p> <p>(2) Sells or leases to or for the use of provider, goods, services, materials or supplies for which payment may be made, in whole or in part, under the program, and offers, transfers or pays anything of additional value in connection with or in return for such sale or lease; or</p> <p>(3) Refers an individual to a provider for the provision of a good or a service for which payment may be made, in whole or in part, under the program, and solicits or accepts anything of value in connection with such referral.</p> <p>It is an exception to subdivisions (1) and (2) of this section that the additional value transferred is a refund or discount made in the ordinary course of business and reflected by the books and records of the individual, corporation or association.<br/>A violation of this section is a Class 5 felony.<br/><b>History:</b> Source: SL 1986, ch 187, § 4.</p> <p><i>S.D. Codified Laws § 22-45-5</i><br/><b>Charge or receipt of amount in addition to amount legally payable -- Penalty</b></p> <p>A person commits an offense if he, acting on behalf of a provider providing a good or a service to a recipient under the program, charges, solicits, accepts or receives anything of additional value in addition to the amount legally payable under the program in connection with a provision of such a good or a service.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                 | <p>A violation of this section is a Class 5 felony.</p> <p><b>History:</b> Source: SL 1986, ch 187, § 5.</p> <p><i>S.D. Codified Laws § 22-45-6</i></p> <p><b>Failure to maintain records -- Destruction of records -- Penalty</b></p> <p>A person commits an offense if he:</p> <p>(1) Having submitted a claim for or received payment for a good or a service under the program, intentionally fails to maintain such records as are necessary to disclose fully the nature of all a good or a service for which a claim was submitted or payment was received, or such records as are necessary to disclose fully all income and expenditures upon which rates of payment were based, for a period of at least six years following the date on which payment was received; or</p> <p>(2) Knowingly destroys such records within six years from the date payment was received.</p> <p>A violation of this section is a Class 1 misdemeanor.</p> <p><b>History:</b> Source: SL 1986, ch 187, § 6.</p> <p><i>S.D. Codified Laws § 22-45-7</i></p> <p><b>Civil liability</b></p> <p>Any person who receives payment for furnishing a good or a service under the program, which the person is not entitled to receive by reason of offenses under §§ 22-45-2 to 22-45-6, inclusive, may in addition to any other penalties provided by law, be liable for civil penalties of:</p> <p>(1) Payment of interest on the amount of the excess payment at the rate provided for pursuant to the official state interest rates under § 54-3-16, category B, from the date upon which payment was made to the date upon which repayment is made to the program; and</p> <p>(2) Payment of up to three times the amount of damages sustained, including the cost of investigation and litigation; and</p> <p>(3) Payment in the sum of two thousand dollars for each false or fraudulent claim, statement or representation submitted for providing a good or a service.</p> <p>A criminal action need not be brought against the person for liability to attach under this section.</p> <p><b>History:</b> Source: SL 1986, ch 187, § 7.</p> <p><i>S.D. Codified Laws § 22-45-8</i></p> <p><b>Suspension or exclusion as provider</b></p> <p>Any person providing a good or a service under the program who has been determined to have committed an offense under §§ 22-45-2 to 22-45-7, inclusive, may be suspended or excluded from participation as a provider or an employee of a provider for a period to be determined by the single-state agency. A criminal action need not be brought against the person before suspension or exclusion under this section.</p> <p><b>History:</b> Source: SL 1986, ch 187, § 8.</p> |
|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                 | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                 | <p>S.D. Codified Laws § 27B-8-43</p> <p><b>Retaliatory actions prohibited -- ""Adverse action" defined</b></p> <p>No agency, community service provider, facility, or school may retaliate against any staff who reports in good faith suspected abuse, neglect, or exploitation, or against any person with a developmental disability with respect to any report. An alleged perpetrator cannot self-report solely for the purpose of claiming retaliation. There is a rebuttable presumption of retaliation for any adverse actions taken within ninety days of a report of</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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|                                                                           | <p>abuse, neglect, or exploitation.</p> <p>Adverse action means only those adverse actions arising solely from the filing of an abuse report. For the purposes of this chapter, adverse action means any action taken by a community service provider or facility against the person making the report or against the person with a developmental disability because of the report and includes:</p> <p>(1) Discharge or transfer from the community service provider or facility except for clinical reasons;</p> <p>(2) Discharge from or termination of employment;</p> <p>(3) Demotion or reduction in remuneration for services; or</p> <p>(4) Restriction or prohibition of access to services and supports or the persons served.</p> <p><b>History:</b> Source: <a href="#">SL 2000, ch 131</a>, § 88.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p><i>Tennessee/</i><br/>False Claims Act</p> <p>4-18-101-108 et seq.</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://www.tn.gov/tenncare/fraud-and-abuse/program-integrity.html">https://www.tn.gov/tenncare/fraud-and-abuse/program-integrity.html</a><br/><a href="https://www.tn.gov/finance/fa-oig/fa-oig-report-fraud.html">https://www.tn.gov/finance/fa-oig/fa-oig-report-fraud.html</a><br/><a href="https://www.tn.gov/tbi/crime-issues/crime-issues/medicaid-fraud.html">https://www.tn.gov/tbi/crime-issues/crime-issues/medicaid-fraud.html</a><br/>TennCare False Claims Act Policy - PI 08-001 (Rev. 4)<br/><a href="https://www.tn.gov/content/dam/tn/tenncare/documents2/pi08001.pdf">https://www.tn.gov/content/dam/tn/tenncare/documents2/pi08001.pdf</a><br/>Overpayments &amp; Section 6402 of the Affordable Care Act<br/><a href="https://www.tn.gov/content/dam/tn/tenncare/documents2/pi11001.pdf">https://www.tn.gov/content/dam/tn/tenncare/documents2/pi11001.pdf</a><br/>Contractor and Provider Screening of Employees &amp; Contractors<br/><a href="https://www.tn.gov/content/dam/tn/tenncare/documents2/pi11-002.pdf">https://www.tn.gov/content/dam/tn/tenncare/documents2/pi11-002.pdf</a></p> <p>Tenn. Code Ann. § 4-18-101<br/>"False Claims Act."</p> <p>Tenn. Code Ann. § 4-18-102<br/><b>Chapter definitions.</b></p> <p>For purposes of this chapter:</p> <p>(1) "Claim" means any request or demand for money, property, or services made to any employee, officer, or agent of the state or of any political subdivision, or to any contractor, grantee, or other recipient, whether under contract or not, if any portion of the money, property, or services requested or demanded issued from, or was provided by, the state, referred to in this chapter as "state funds" or by any political subdivision thereof, referred to in this chapter as "political subdivision funds";</p> <p>(2) "Knowing" and "knowingly" mean that a person, with respect to information, does any of the following:</p> <p>(A) Has actual knowledge of the information;</p> <p>(B) Acts in deliberate ignorance of the truth or falsity of the information; or</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>(C) Acts in reckless disregard of the truth or falsity of the information.</p> <p>Proof of specific intent to defraud is not required;</p> <p>(3) "Person" means any natural person, corporation, firm, association, organization, partnership, limited liability company, business, or trust;</p> <p>(4) "Political subdivision" means any city, town, municipality, county, including any county having a metropolitan form of government, or other legally authorized local governmental entity with jurisdictional boundaries; and</p> <p>(5) "Prosecuting authority" means the county counsel, city attorney, or other local government official charged with investigating, filing, and conducting civil legal proceedings on behalf of, or in the name of, a particular political subdivision.</p> <p><b>HISTORY:</b> <a href="#">Acts 2001, ch. 367, § 2.</a></p> <p>Tenn. Code Ann. § 4-18-103</p> <p><b>Liability for violations.</b></p> <p>(a) Any person who commits any of the following acts shall be liable to the state or to the political subdivision for three (3) times the amount of damages that the state or the political subdivision sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the state or to the political subdivision for the costs of a civil action brought to recover any of those penalties or damages, and shall be liable to the state or political subdivision for a civil penalty of not less than two thousand five hundred dollars (\$2,500) and not more than ten thousand dollars (\$10,000) for each false claim:</p> <p>(1) Knowingly presents or causes to be presented to an officer or employee of the state or of any political subdivision thereof, a false claim for payment or approval;</p> <p>(2) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the state or by any political subdivision;</p> <p>(3) Conspires to defraud the state or any political subdivision by getting a false claim allowed or paid by the state or by any political subdivision;</p> <p>(4) Has possession, custody, or control of public property or money used or to be used by the state or by any political subdivision and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;</p> <p>(5) Is authorized to make or deliver a document certifying receipt of property used or to be used by the state or by any political subdivision and knowingly makes or delivers a receipt that falsely represents the property used or to be used;</p> <p>(6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property;</p> <p>(7) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state or to any political subdivision;</p> <p>(8) Is a beneficiary of an inadvertent submission of a false claim to the state or a political subdivision, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the state or the political subdivision within a reasonable time after discovery of the false claim; or</p> <p>(9) Knowingly makes, uses, or causes to be made or used any false or fraudulent conduct, representation, or practice in order to procure anything of value directly or indirectly from the state or any political subdivision.</p> <p>(b) Notwithstanding subsection (a), the court may assess not less than two (2) times nor more than three (3) times the amount of damages that the state or the political subdivision sustains because of the act of the person described in that subsection, and no civil penalty, if the court finds all of the following:</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>(1) The person committing the violation furnished officials of the state or of the political subdivision responsible for investigating false claims violations with all information known to that person about the violation within thirty (30) days after the date on which the person first obtained the information;</p> <p>(2) The person fully cooperated with any investigation by the state or a political subdivision of the violation; and</p> <p>(3) At the time the person furnished the state or the political subdivision with information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.</p> <p>(c) Liability under this section shall be joint and several for any act committed by two (2) or more persons.</p> <p>(d) This section does not apply to any controversy involving an amount of less than five hundred dollars (\$500) in value, unless the controversy arose from a violation of chapter 58 of this title. For purposes of this subsection (d), "controversy" means any one (1) or more false claims submitted by the same person in violation of this chapter.</p> <p>(e) This section does not apply to claims, records, or statements made pursuant to workers' compensation claims.</p> <p>(f) This section does not apply to claims, records, or statements made under any statute applicable to any tax administered by the department of revenue.</p> <p><b>HISTORY:</b> <a href="#"><i>Acts 2001, ch. 367, § 3</i></a>; <a href="#"><i>2003, ch. 418, § 4</i></a>; <a href="#"><i>2012, ch. 1061, § 2</i></a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p>Tenn. Code Ann. § 4-18-104</p> <p><b>Investigation and prosecution.</b></p> <p>(a) (1) The attorney general and reporter shall diligently investigate violations under <a href="#"><u>§ 4-18-103</u></a> involving state funds. If the attorney general and reporter finds that a person has violated or is violating <a href="#"><u>§ 4-18-103</u></a>, the attorney general and reporter may bring a civil action under this section against that person.</p> <p>(2) If the attorney general and reporter brings a civil action under this subsection (a) on a claim involving political subdivision funds as well as state funds, the attorney general and reporter shall, on the same date that the complaint is filed in this action, serve by mail with "return receipt requested" a copy of the complaint on the appropriate prosecuting authority.</p> <p>(3) The prosecuting authority shall have the right to intervene in an action brought by the attorney general and reporter under this subsection (a) within sixty (60) days after receipt of the complaint pursuant to subdivision (a)(2). The court may permit intervention thereafter.</p> <p>(b) (1) The prosecuting authority of a political subdivision shall diligently investigate violations under <a href="#"><u>§ 4-18-103</u></a> involving political subdivision funds. If the prosecuting authority finds that a person has violated or is violating <a href="#"><u>§ 4-18-103</u></a>, the prosecuting authority may bring a civil action under this section against that person.</p> <p>(2) If the prosecuting authority brings a civil action under this section on a claim involving state funds as well as political subdivision funds, the prosecuting authority shall, on the same date that the complaint is filed in this action, serve a copy of the complaint on the attorney general and reporter.</p> <p>(3) Within sixty (60) days after receiving the complaint pursuant to subdivision (b)(2), the attorney general and reporter shall do either of the following:</p> <p>(A) Notify the court that it intends to proceed with the action, in which case the attorney general and reporter shall assume primary responsibility for conducting the action and the prosecuting authority shall have the right to continue as a party; or</p> <p>(B) Notify the court that it declines to proceed with the action, in which case the prosecuting authority shall have the right to conduct the action.</p> <p>(c) (1) A person may bring a civil action for a violation of this chapter for the person and either for the state of Tennessee in the name of the state, if any state funds are involved, or for a political subdivision in the name of the political subdivision, if political subdivision funds are involved, or for both the state and political subdivision if state and political subdivision funds are involved. The person bringing the action shall be referred to as</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>the qui tam plaintiff. Once filed, 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 chapter.</p> <p>(2) A complaint filed by a private person under this subsection (c) shall be filed in circuit or chancery court in camera and may remain under seal for up to sixty (60) days. No service shall be made on the defendant until after the complaint is unsealed. This subsection (c) shall not be construed as prohibiting an action being brought in federal court that involves claims from several states or claims involving federal funds.</p> <p>(3) On the same day as the complaint is filed pursuant to subdivision (c)(2), the qui tam plaintiff shall serve by mail with "return receipt requested" the attorney general and reporter with a copy of the complaint and a written disclosure of substantially all material evidence and information the person possesses.</p> <p>(4) Within sixty (60) days after receiving a complaint and written disclosure of material evidence and information alleging violations that involve state funds but not political subdivision funds, the attorney general and reporter may elect to intervene and proceed with the action.</p> <p>(5) The attorney general and reporter may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal pursuant to subdivision (c)(2). The motion may be supported by affidavits or other submissions in camera.</p> <p>(6) Before the expiration of the sixty-day period or any extensions obtained under subdivision (c)(5), the attorney general and reporter shall do either of the following:</p> <p>(A) Notify the court that it intends to proceed with the action, in which case the action shall be conducted by the attorney general and reporter and the seal shall be lifted; or</p> <p>(B) Notify the court that it declines to proceed with the action, in which case the seal shall be lifted and the qui tam plaintiff shall have the right to conduct the action.</p> <p>(7) (A) Within fifteen (15) days after receiving a complaint alleging violations that exclusively involve political subdivision funds, the attorney general and reporter shall forward copies of the complaint and written disclosure of material evidence and information to the appropriate prosecuting authority for disposition, and shall notify the qui tam plaintiff of the transfer.</p> <p>(B) Within forty-five (45) days after the attorney general and reporter forwards the complaint and written disclosure pursuant to subdivision (c)(7)(A), the prosecuting authority may elect to intervene and proceed with the action.</p> <p>(C) The prosecuting authority may, for good cause shown, move for extensions of the time during which the complaint remains under seal. The motion may be supported by affidavits or other submissions in camera.</p> <p>(D) Before the expiration of the forty-five-day period or any extensions obtained under subdivision (c)(7)(C), the prosecuting authority shall do either of the following:</p> <p>(i) Notify the court that it intends to proceed with the action, in which case the action shall be conducted by the prosecuting authority and the seal shall be lifted; or</p> <p>(ii) Notify the court that it declines to proceed with the action, in which case the seal shall be lifted and the qui tam plaintiff shall have the right to conduct the action.</p> <p>(8) (A) Within fifteen (15) days after receiving a complaint alleging violations that involve both state and political subdivision funds, the attorney general and reporter shall forward copies of the complaint and written disclosure to the appropriate prosecuting authority, and shall coordinate its review and investigation with those of the prosecuting authority.</p> <p>(B) Within sixty (60) days after receiving a complaint and written disclosure of material evidence and information alleging violations that involve both state and political subdivision funds, the attorney general and reporter or the prosecuting authority, or both, may elect to intervene and proceed with the action.</p> <p>(C) The attorney general and reporter or the prosecuting authority, or both, may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under subdivision (c)(2). The motion may be supported by affidavits or other submissions in camera.</p> <p>(D) Before the expiration of the sixty-day period or any extensions obtained under subdivision (c)(8)(C), the attorney general and reporter shall do one of the following:</p> |



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|                 | <p>(i) Notify the court that, it intends to proceed with the action, in which case the action shall be conducted by the attorney general and reporter and the seal shall be lifted;</p> <p>(ii) Notify the court that it declines to proceed with the action but that the prosecuting authority of the political subdivision involved intends to proceed with the action, in which case the seal shall be lifted and the action shall be conducted by the prosecuting authority; or</p> <p>(iii) Notify the court that both it and the prosecuting authority decline to proceed with the action, in which case the seal shall be lifted and the qui tam plaintiff shall have the right to conduct the action.</p> <p>(E) If the attorney general and reporter proceeds with the action pursuant to subdivision (c)(8)(D)(i) the prosecuting authority of the political subdivision shall be permitted to intervene in the action within sixty (60) days after the attorney general and reporter notifies the court of its intentions. The court may authorize intervention thereafter.</p> <p>(9) The defendant shall not be required to respond to any complaint filed under this section until thirty (30) days after the complaint is unsealed and served upon the defendant.</p> <p>(10) When a person brings an action under this subsection (c), no other person may bring a related action based on the facts underlying the pending action.</p> <p>(d) (1) No court shall have jurisdiction over an action brought under subsection (c) against a member of the general assembly, a member of the state judiciary, an elected official in the executive branch of the state, or a member of the governing body or other elected official of any political subdivision if the action is based on evidence or information known to the state or political subdivision when the action was brought.</p> <p>(2) A person may not bring an action under subsection (c) that is based upon allegations or transactions that are the subject of a civil suit or an administrative proceeding in which the state or political subdivision is already a party.</p> <p>(3) (A) No court shall have jurisdiction over an action under this chapter based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in an investigation, report, hearing, or audit conducted by or at the request of the general assembly, comptroller of the treasury, or governing body of a political subdivision, or by the news media, unless the action is brought by the attorney general and reporter or the prosecuting authority of a political subdivision or the person bringing the action is an original source of the information.</p> <p>(B) For purposes of subdivision (d)(3)(A), "original source" means an individual, who has direct and independent knowledge of the information on which the allegations are based, who voluntarily provided the information to the state or political subdivision before filing an action based on that information, and whose information provided the basis or catalyst for the investigation, hearing, audit, or report that led to the public disclosure as described in subdivision (d)(3)(A).</p> <p>(4) No court shall have jurisdiction over an action brought under subsection (c) based upon information discovered by a present or former employee of the state or a political subdivision during the course of such person's employment unless that employee first, in good faith, exhausted existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels and unless the state or political subdivision failed to act on the information provided within a reasonable period of time.</p> <p>(e) (1) If the state or political subdivision proceeds with the action, it shall have the primary responsibility for prosecuting the action. The qui tam plaintiff shall have the right to continue as a full party to the action.</p> <p>(2) (A) 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 by the state or political subdivision of the filing of the motion and the court has provided the qui tam plaintiff with an opportunity to oppose the motion and present evidence at a hearing.</p> <p>(B) The state or political subdivision may settle the action with the defendant notwithstanding the objections of 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.</p> <p>(f) (1) If the state or political subdivision elects not to proceed, the qui tam plaintiff shall have the same right to conduct the action as the attorney general and reporter or prosecuting authority would have had if it had chosen to proceed under subsection (c). If the state or political subdivision so requests, and at its expense, the state or political subdivision shall be served with copies of all pleadings filed in the action and supplied with copies of all deposition transcripts.</p> <p>(2) (A) Upon timely application, the court shall permit the state or political subdivision to intervene in an action with which it had initially declined to proceed if the interest of the state or political subdivision in</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>recovery of the property or funds involved is not being adequately represented by the qui tam plaintiff.</p> <p><b>(B)</b> If the state or political subdivision is allowed to intervene under subdivision (f)(2)(A), the qui tam plaintiff shall retain principal responsibility for the action and the recovery of the parties shall be determined as if the state or political subdivision had elected not to proceed.</p> <p><b>(g) (1) (A)</b> If the attorney general and reporter initiates an action pursuant to subsection (a) or assumes control of an action initiated by a prosecuting authority pursuant to subdivision (b)(3)(A), the office of the attorney general and reporter shall receive a fixed thirty-three percent (33%) of the proceeds of the action or settlement of the claim, which shall be used to support its ongoing investigation and prosecution of false claims.</p> <p><b>(B)</b> If a prosecuting authority initiates and conducts an action pursuant to subsection (b), the office of the prosecuting authority shall receive a fixed thirty-three percent (33%) of the proceeds of the action or settlement of the claim, which shall be used to support its ongoing investigation and prosecution of false claims.</p> <p><b>(C)</b> If a prosecuting authority intervenes in an action initiated by the attorney general and reporter pursuant to subdivision (a)(3) or remains a party to an action assumed by the attorney general and reporter pursuant to subdivision (b)(3)(A), the court may award the office of the prosecuting authority a portion of the attorney general and reporter's fixed thirty-three percent (33%) of the recovery under subdivision (g)(1)(A), taking into account the prosecuting authority's role in investigating and conducting the action.</p> <p><b>(2)</b> If the state or political subdivision proceeds with an action brought by a qui tam plaintiff under subsection (c), the qui tam plaintiff shall, subject to subdivisions (g)(4) and (5), receive at least twenty-five percent (25%) but not more than thirty-three percent (33%) of the proceeds of the action or settlement of the claim, depending upon the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action. When it conducts the action, the attorney general and reporter's office or the office of the prosecuting authority of the political subdivision shall receive a fixed thirty-three percent (33%) of the proceeds of the action or settlement of the claim, which shall be used to support its ongoing investigation and prosecution of false claims made against the state or political subdivision. When both the attorney general and reporter and a prosecuting authority are involved in a qui tam action pursuant to subdivision (c)(6)(C), the court at its discretion may award the prosecuting authority a portion of the attorney general and reporter's fixed thirty-three percent (33%) of the recovery, taking into account the prosecuting authority's contribution to investigating and conducting the action.</p> <p><b>(3)</b> If the state or political subdivision does not proceed with an action under subsection (c), the qui tam plaintiff shall, subject to subdivisions (g)(4) and (5), receive an amount that the court decides is reasonable for collecting the civil penalty and damages on behalf of the government. The amount shall be not less than thirty-five percent (35%) and not more than fifty percent (50%) of the proceeds of the action or settlement and shall be paid out of these proceeds.</p> <p><b>(4)</b> If the action is one provided for under subdivision (d)(4), the present or former employee of the state or political subdivision is not entitled to any minimum guaranteed recovery from the proceeds. The court, however, may award the qui tam plaintiff those sums from the proceeds as it considers appropriate, but in no case more than thirty-three percent (33%) of the proceeds if the state or political subdivision goes forth with the action or fifty percent (50%) if the state or political subdivision declines to go forth, taking into account the significance of the information, the role of the qui tam plaintiff in advancing the case to litigation, and the scope of, and response to, the employee's attempts to report and gain recovery of the falsely claimed funds through official channels.</p> <p><b>(5)</b> If the action is one that the court finds to be based primarily on information from a present or former employee who actively participated in the fraudulent activity, the employee is not entitled to any minimum guaranteed recovery from the proceeds. The court, however, may award the qui tam plaintiff any sums from the proceeds it considers appropriate, but in no case more than thirty-three percent (33%) of the proceeds if the state or political subdivision goes forth with the action or fifty percent (50%) if the state or political subdivision declines to go forth, taking into account the significance of the information, the role of the qui tam plaintiff in advancing the case to litigation, the scope of the present or past employee's involvement in the fraudulent activity, the employee's attempts to avoid or resist the activity, and all other circumstances surrounding the activity.</p> <p><b>(6)</b> The portion of the recovery not distributed pursuant to subdivisions (g)(1)-(5), inclusive, shall revert to the state if the underlying false claims involved state funds exclusively and to the political subdivision if the underlying false claims involved political subdivision funds exclusively. If the violation involved both state and political subdivision funds, the court shall make an apportionment between the state and political subdivision based on their relative share of the funds falsely claimed.</p> <p><b>(7)</b> For purposes of this section, "proceeds" include civil penalties as well as double or treble damages as provided in <a href="#">§ 4-18-103</a>.</p> <p><b>(8)</b> If the state, political subdivision, or the qui tam plaintiff prevails in or settles any action under subsection (c), the qui tam plaintiff shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable costs and attorney's fees. All expenses, costs, and fees shall be awarded against the defendant and under no circumstances shall they be the responsibility of the state or political</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                 | <p>subdivision.</p> <p>(9) If the state, a political subdivision, or the qui tam plaintiff proceeds with the action, the court may award to the defendant its reasonable attorney's fees and expenses against the party that proceeded with the action if the defendant prevails in the action and the court finds that the claim was clearly frivolous, clearly vexatious, or brought solely for purposes of harassment.</p> <p>(h) (1) The court may stay an act of discovery of the person initiating the action for a period of not more than sixty (60) days if the attorney general and reporter or local prosecuting authority shows that the act of discovery would interfere with an investigation or a prosecution of criminal or civil matter arising out of the same facts, regardless of whether the attorney general and reporter or local prosecuting authority proceeds with the action. This showing shall be conducted in camera.</p> <p>(2) The court may extend the sixty-day period upon a further showing in camera that the attorney general and reporter or local prosecuting authority 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.</p> <p>(i) Upon a showing by the attorney general and reporter or local prosecuting authority that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the attorney general and reporter's or local prosecuting authority'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 the following:</p> <p>(1) Limiting the number of witnesses the person may call;</p> <p>(2) Limiting the length of the testimony of the witnesses;</p> <p>(3) Limiting the person's cross-examination of witnesses; or</p> <p>(4) Otherwise limiting the participation by the person in the litigation.</p> <p>(j) There is hereby created in the state treasury a fund to be known as the "False Claims Act Fund." Proceeds from the action or settlement of the claim by the attorney general and reporter pursuant to this chapter shall be deposited into this fund. Moneys in this fund, upon appropriation by the general assembly, shall be used by the attorney general and reporter to support the ongoing investigation and prosecution of false claims in furtherance of this chapter. Amounts in the fund at the end of any fiscal year shall not revert to the general fund, but shall remain available for the purposes set forth in this chapter.</p> <p><b>HISTORY:</b> <a href="#">Acts 2001, ch. 367, § 4</a>; <a href="#">2004, ch. 763, § 1</a>.</p> <p>Tenn. Code Ann. § 4-18-106 - <b>Statute of limitations.</b></p> <p>(a) A civil action under <a href="#">§ 4-18-104</a> may not be filed more than three (3) years after the date of discovery by the official of the state or political subdivision charged with responsibility to act in the circumstances or, in any event, no more than ten (10) years after the date on which the violation of <a href="#">§ 4-18-103</a> was committed.</p> <p>(b) A civil action under <a href="#">§ 4-18-104</a> may be brought for activity prior to July 1, 2001, if the limitations period set in subsection (a) has not lapsed.</p> <p>(c) In any action brought under <a href="#">§ 4-18-104</a>, the state, the 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.</p> <p>(d) Notwithstanding any other provision of law to the contrary, a guilty verdict rendered in a criminal proceeding charging false statements or fraud, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, except for a plea of nolo contendere made prior to July 1, 2001, 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 <a href="#">§ 4-18-104(a)</a>, (b), or (c).</p> <p><b>HISTORY:</b> <a href="#">Acts 2001, ch. 367, § 6</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>Tenn. Code Ann. § 4-18-107 - <b>Provisions are not exclusive -- Liberal construction.</b></p> <p>(a) This chapter is not exclusive, and the remedies provided for in this chapter shall be in addition to any other remedies provided for by law or available under common law.</p> <p>(b) If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to that end this chapter is declared to be severable.</p> <p>(c) This chapter is declared to be remedial in nature and this chapter shall be liberally construed to effectuate its purposes.</p> <p><b>HISTORY:</b> <a href="#">Acts 2001, ch. 367, § 7.</a></p> <p>Tenn. Code Ann. § 4-18-108 - <b>Inapplicable to medical claims.</b></p> <p>This chapter shall not apply to any conduct, activity or claims covered by the Medicaid False Claims Act, <a href="#">§§ 71-5-181 -- 71-5-185</a>, including without limitation, claims arising out of funds paid to or by TennCare managed care organizations.</p> <p><b>HISTORY:</b> <a href="#">Acts 2001, ch. 367, § 8.</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                 | <p><b>Whistle-blower Protections</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                 | <p>Tenn. Code Ann. § 4-18-105</p> <p><b>4-18-105. Prohibition against preventing employees from disclosing information -- Violations -- Remedies.</b></p> <p>(a) No employer shall make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency or from acting in furtherance of a false claims action, including investigating, initiating, testifying, or assisting in an action filed or to be filed under <a href="#">§ 4-18-104</a>.</p> <p>(b) No employer shall 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 lawful acts done by the employee on behalf of the employee or others in disclosing information to a government or law enforcement agency or in furthering a false claims action, including investigation for, initiation of, testimony for, or assistance in, an action filed or to be filed under <a href="#">§ 4-18-104</a>.</p> <p>(c) An employer who violates subsection (b) shall be liable 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 discrimination, two (2) times the amount of back pay, interest on the back pay, compensation for any special damage sustained as a result of the discrimination, and, where appropriate, punitive damages. In addition, the defendant shall be required to pay litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate chancery court of the state for the relief provided in this subsection (c).</p> <p>(d) An employee who is discharged, demoted, suspended, harassed, denied promotion, or in any other manner discriminated against in terms and conditions of employment by such person's employer because of participation in conduct that directly or indirectly resulted in the submission of a false claim to the state or a political subdivision shall be entitled to the remedies under subsection (c) if, and only if, both of the following occur:</p> <p>(1) The employee voluntarily disclosed information to a government or law enforcement agency or acted in furtherance of a false claims action, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed; and</p> <p>(2) The employee had been harassed, threatened with termination or demotion, or otherwise coerced by the employer or its management into engaging in the fraudulent activity in the first place.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p><b>HISTORY:</b> <a href="#">Acts 2001, ch. 367, § 5.</a></p> <p><b>Tenn. Code Ann. § 50-1-304 - Discharge for refusal to participate in or remain silent about illegal activities, or for legal use of agricultural product -- Damages -- Frivolous lawsuits.</b></p> <p>(a) As used in this section:</p> <p>(1) "Employee" includes, but is not limited to:</p> <p>(A) A person employed by the state or any municipality, county, department, board, commission, agency, instrumentality, political subdivision or any other entity of the state;</p> <p>(B) A person employed by a private employer; or</p> <p>(C) A person who receives compensation from the federal government for services performed for the federal government, notwithstanding that the person is not a full-time employee of the federal government;</p> <p>(2) "Employer" includes, but is not limited to:</p> <p>(A) The state or any municipality, county, department, board, commission, agency, instrumentality, political subdivision or any other entity of the state;</p> <p>(B) A private employer; or</p> <p>(C) The federal government as to an employee who receives compensation from the federal government for services performed for the federal government, notwithstanding that the person is not a full-time federal employee; and</p> <p>(3) "Illegal activities" means activities that are in violation of the criminal or civil code of this state or the United States or any regulation intended to protect the public health, safety or welfare.</p> <p>(b) No employee shall be discharged or terminated solely for refusing to participate in, or for refusing to remain silent about, illegal activities.</p> <p>(c) (1) Any employee terminated in violation of subsection (b) shall have a cause of action against the employer for retaliatory discharge and any other damages to which the employee may be entitled, subject to the limitations set out in <a href="#">§ 4-21-313</a>.</p> <p>(2) Any employee terminated in violation of subsection (b) solely for refusing to participate in, or for refusing to remain silent about, illegal activities who prevails in a cause of action against an employer for retaliatory discharge for the actions shall be entitled to recover reasonable attorney fees and costs.</p> <p>(d) (1) No employee shall be discharged or terminated solely for participating or engaging in the use of an agricultural product not regulated by the alcoholic beverage commission that is not otherwise proscribed by law, if the employee participates or engages in the use in a manner that complies with all applicable employer policies regarding the use during times at which the employee is working.</p> <p>(2) No employee shall be discharged or terminated solely for participating or engaging in the use of the product not regulated by the alcoholic beverage commission that is not otherwise proscribed by law if the employee participates or engages in the activity during times when the employee is not working.</p> <p>(e) (1) This section shall not be used for frivolous lawsuits, and anyone trying to do so is subject to sanction as provided in subdivision (c)(2).</p> <p>(2) If any employee files a cause of action for retaliatory discharge for any improper purpose, such as to harass or to cause needless increase in costs to the employer, the court, upon motion or upon its own initiative, shall impose upon the employee an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred, including reasonable attorney's fees.</p> <p>(f) In any civil cause of action for retaliatory discharge brought pursuant to this section, or in any civil cause of action alleging retaliation for refusing to participate in or remain silent about illegal activities, the plaintiff shall have the burden of establishing a prima facie case of retaliatory discharge. If the plaintiff satisfies this burden, the burden shall then be on the defendant to produce evidence that one (1) or more legitimate, nondiscriminatory reasons existed for the plaintiff's discharge. The burden on the defendant is one of production and not persuasion. If the defendant produces such evidence, the presumption of discrimination raised by the plaintiff's prima facie case is rebutted, and the burden shifts to the plaintiff to demonstrate that the reason given by the defendant was not the true reason for the plaintiff's discharge and that the stated reason was a</p> |

| State /Citation                                                                   | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                                                                                   | <p>pretext for unlawful retaliation. The foregoing allocations of burdens of proof shall apply at all stages of the proceedings, including motions for summary judgment. The plaintiff at all times retains the burden of persuading the trier of fact that the plaintiff has been the victim of unlawful retaliation.</p> <p>(g) This section abrogates and supersedes the common law with respect to any claim that could have been brought under this section.<br/><b>HISTORY:</b> <a href="#">Acts 1990, ch. 771, §§ 1, 2</a>; <a href="#">1997, ch. 511, §§ 1, 2</a>; <a href="#">2000, ch. 688, § 1</a>; <a href="#">2009, ch. 161, § 1</a>; <a href="#">2011, ch. 461, § 2</a>; <a href="#">2014, ch. 995, §§ 4-6</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Tennessee/<br><br>Medicaid False Claims Act<br><br>Tenn. Code Ann. § 71-5-181-185 | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Tenn. Code Ann. § 71-5-181<br/><b>Tennessee Medicaid False Claims Act</b><br/>    (a) The title of this section and <a href="#">§§ 71-5-182 -- 71-5-185</a> is and may be cited as the "Tennessee Medicaid False Claims Act."</p> <p>    (b) "Medicaid program" as used in <a href="#">§§ 71-5-182 -- 71-5-185</a> includes the TennCare program and any successor program to the medicaid program.<br/><b>HISTORY:</b> <a href="#">Acts 1993, ch. 364, § 1</a>.</p> <p>Tenn. Code Ann. § 71-5-182<br/><b>Violations -- Damages -- Definitions.</b></p> <p>    (a) Subject to subdivision (a)(2), any person who:</p> <p>        (1) (A) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval under the medicaid program;</p> <p>            (B) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim under the medicaid program;</p> <p>        (C) Conspires to commit a violation of subdivision (a)(1)(A), (a)(1)(B), or (a)(1)(D); or</p> <p>        (D) 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, relative to the medicaid program;</p> <p>        is liable to the state for a civil penalty of not less than five thousand dollars (\$5,000) and not more than twenty-five thousand dollars (\$25,000), adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, compiled in <a href="#">28 U.S.C. § 2461</a> note; Public Law 101-410, plus three (3) times the amount of damages which the state sustains because of the act of that person.</p> <p>    (2) However, if the court finds that:</p> <p>        (A) The person committing the violation of this subsection (a) furnished officials of the state responsible for investigating false claims violations with all information known to such person about the violation within thirty (30) days after the date on which the defendant first obtained the information;</p> <p>        (B) The person fully cooperated with any state investigation of such violation; and</p> <p>        (C) At the time such person furnished the state with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under <a href="#">§§ 71-5-181 -- 71-5-186</a> with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation;</p> <p>        the court may assess not less than two (2) times the amount of damages which the state sustains because of the act of the person.</p> <p>    (3) A person violating this subsection (a) shall also be liable for the costs of a civil action brought to recover any such penalty or damages.</p> |
| TennCare Fraud & Abuse<br>Tenn. Code Ann. § 71-5-2601                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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|                 | <p>(b) For purposes of this section, "knowing" and "knowingly" mean that a person, with respect to information:</p> <p>(1) Has actual knowledge of the information;</p> <p>(2) Acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(3) Acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.</p> <p>(c) "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 any employee, officer, or agent of the state, or is made to any 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; or if the state will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and 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.</p> <p>(d) "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.</p> <p>(e) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>(f) Any person who engages, has engaged or proposes to engage in any act described by subsection (a) may be enjoined in any court of competent jurisdiction in an action brought by the attorney general and reporter. The action shall be brought in the name of the state and shall be granted if it is clearly shown that the state's rights are being violated by such person or entity and the state will suffer immediate and irreparable injury, loss or damage pending a final judgment in the action, or that the acts or omissions of such person or entity will tend to render such final judgment ineffectual. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent any act described by subsection (a) by any person or entity, or as may be necessary to restore to the medicaid program any money or property, real or personal, which may have been acquired by means of such act.</p> <p><b>HISTORY:</b> <a href="#">Acts 1993, ch. 364, § 2</a>; <a href="#">2004, ch. 784, § 2</a>; <a href="#">2012, ch. 806, §§ 1-5</a>; <a href="#">2013, ch. 99, § 1</a>.</p> <p>Tenn. Code Ann. § 71-5-2601</p> <p><b>71-5-2601. Offenses -- Penalties -- Remedies -- Limitations.</b></p> <p>(a) (1) (A) A person, including an enrollee, recipient, or applicant, commits an offense who knowingly obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement, representation, or impersonation, or by concealment of any material fact, or by any other fraudulent means, or in any manner not authorized by any rule, regulation, or statute governing TennCare:</p> <p>(i) Medical assistance benefits or any assistance provided pursuant to any rule, regulation, procedure, or statute governing TennCare to which such person is not entitled, or of a greater value than that to which such person is authorized;</p> <p>(ii) Benefits by knowingly making a willfully false statement, or concealing a material fact relating to personal or household income, thereby resulting in the assessment of a lower monthly premium than the person would be required to pay if not for the false statement or concealment of a material fact; or</p> <p>(iii) Controlled substance benefits by knowingly, willfully and with the intent to deceive, failing to disclose to a physician, nurse practitioner, ancillary staff, or other health care provider from whom the person obtains a controlled substance, or a prescription for a controlled substance, that the person has received either the same controlled substance or a prescription for the same controlled substance, or a controlled substance of similar therapeutic use or a prescription for a controlled substance of similar therapeutic use, from another practitioner within the previous thirty (30) days and the person used TennCare to obtain the benefits.</p> <p>(B) An offense under subdivision (a)(1)(A) is a Class D felony. In addition to restitution, a person who pleads guilty or nolo contendere or is found guilty of violating this section shall be fined:</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p>(i) Two hundred fifty dollars (\$250) for the first offense;</p> <p>(ii) Five hundred dollars (\$500) for the second offense; and</p> <p>(iii) One thousand dollars (\$1,000) for a third or subsequent offense.</p> <p>(C) The fines authorized under subdivision (a)(1)(B) shall be collected by the county court clerk with five percent (5%) of the fine going to the clerk of the court and the remaining ninety-five percent (95%) of the fine transmitted to the state treasurer on a monthly basis for deposit in the general fund.</p> <p>(2) (A) A person, firm, corporation, partnership or any other entity, including a vendor, other than an enrollee, recipient, or applicant, commits an offense who knowingly obtains, or attempts to obtain, or aids or abets any person or entity to obtain, by means of a willfully false statement, report, representation, claim or impersonation, or by concealment of any material fact, or by any other fraudulent means, including knowingly presenting or causing to be presented to TennCare or any of its contractors, subcontractors or vendors a false or fraudulent claim for payment or approval, or in any manner not authorized by any rule, regulation, procedure, or statute governing TennCare, medical assistance payments provided pursuant to any rule, regulation, procedure, or statute governing TennCare to which the person or entity is not entitled, or of a greater value than that to which the person or entity is authorized. For purposes of this subsection (a), "attempts to obtain" includes making or presenting to any person a claim for any payment under any rule, regulation, procedure, or statute governing TennCare, knowing the claim to be false, fictitious or fraudulent.</p> <p>(B) An offense under subdivision (a)(2)(A) is a Class D felony unless the value of the property or services obtained meets the threshold set for a Class B or Class C offense under <a href="#">§ 39-14-105</a>, in which case the appropriate higher class shall apply. In addition to any other penalty, a sentence that includes a fine, when imposed upon an entity or upon a person for actions benefiting an entity, shall include the corporation fine specified in <a href="#">§ 40-35-111</a>.</p> <p>(3) (A) A person, firm, corporation, partnership or any other entity commits an offense when providing a willfully false statement regarding another's medical condition or eligibility for insurance, to aid or abet another in obtaining or attempting to obtain medical assistance payments, medical assistance benefits or any assistance provided under any rule, regulation, procedure, or statute governing TennCare to which the person is not entitled or to a greater value than that to which such person is authorized. For purposes of this subsection (a), "attempting to obtain" includes making or presenting to any person a claim for any payment under any rule, regulation, procedure, or statute governing TennCare, knowing such claim to be false, fictitious or fraudulent.</p> <p>(B) An offense under subdivision (a)(3)(A) is a Class D felony unless the value of the property or services obtained meets the threshold set for a Class B or Class C offense under <a href="#">§ 39-14-105</a>, in which case the appropriate higher class shall apply. In addition to any other penalty, a sentence that includes a fine, when imposed upon an entity or upon a person for actions benefiting an entity, shall include the corporation fine specified in <a href="#">§ 40-35-111</a>.</p> <p>(4) Any person, firm, corporation, partnership or other entity is guilty of a Class D felony that, in connection with the investigation of a violation of offenses set forth in this section, knowingly and willfully:</p> <p>(A) Falsifies, conceals or omits by any trick, scheme, artifice, or device a material fact;</p> <p>(B) Makes any materially false, fictitious or fraudulent statement or representation; or</p> <p>(C) Makes or uses any materially false writing or document.</p> <p>(5) (A) A person commits an offense who knowingly sells, delivers, or aids and abets any person in the sale or delivery of a drug and used TennCare to obtain the drug.</p> <p>(B) As used in this subdivision (a)(5), "drug", "deliver" and "delivery" shall have the same meaning as set forth in <a href="#">§ 39-17-402</a>.</p> <p>(C) This subdivision (a)(5) shall not apply to any duly licensed physician, nurse practitioner, pharmacist, or other provider authorized to issue or dispense a prescription acting in good faith in the course of his or her profession.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(D) An offense under this subdivision (a)(5) is a Class D felony.</p> <p>(b) In addition to any other penalties provided for any person, firm, corporation, partnership or other entity under subsection (a), the court shall also:</p> <p>(1) (A) Order restitution to TennCare in the greater of the total amount of all medical assistance payments made to all providers, or the total amount of all payments to a managed care entity, related to the services underlying the offense; and</p> <p>(B) Report the person or entity to the appropriate professional licensure board or the department of commerce and insurance for disciplinary action.</p> <p>(2) In addition to any other penalties provided under this section, the court may also, to the full extent permitted by federal law and the TennCare waiver as interpreted by the CMS, order any such person or entity disqualified from participation in the medical assistance program; such disqualification may also apply to any person who is convicted of a criminal offense involving the selling of prescription drugs obtained through the TennCare program. Any person or entity disqualified from participation in the medical assistance program shall make restitution in the total amount of the medical assistance or underpayment which forms the basis for the conviction before such person or entity can reenroll in the TennCare program.</p> <p>(3) A subsequent denial of eligibility or denial of a claim for payment does not, of itself, establish proof of falsity of a statement, representation, report or claim for payment under subsection (a).</p> <p>(c) Nothing in this section shall be construed as prohibiting a person or entity violating this section from being prosecuted for theft of property or services under title 39, chapter 14.</p> <p>(d) In addition to any other remedy available, including those provided in this section, the state may recover from any person or such person's estate, or from a firm, corporation, partnership or other entity, including a vendor, the amount of medical assistance benefits or payments improperly paid as a result of fraudulent means or actions not authorized by any rule, regulation, procedure, or statute governing TennCare.</p> <p>(e) Notwithstanding any other law to the contrary, prosecutions for violations of this section shall be commenced within four (4) years after the commission of the offense.</p> <p><b>HISTORY:</b> <a href="#">Acts 2004, ch. 784, § 1</a>; <a href="#">2007, ch. 103, § 1</a>; <a href="#">2007, ch. 458, §§ 1</a>, 2; <a href="#">2008, ch. 1139, § 1</a>; <a href="#">2013, ch. 159, §§ 1</a>, 2; <a href="#">2016, ch. 744, §§ 1</a>, 2.</p> <p>Tenn. Code Ann. § 71-5-2602<br/><b>Record keeping.</b></p> <p>(a) Upon submitting a claim for, or upon receiving payment for, goods, services, items, facilities or accommodations under the TennCare program, a managed care organization, provider, vendor, subcontractor, or any other person or entity, shall maintain adequate records for a minimum of five (5) years after the date on which payment was received, if payment was received, or for five (5) years after the date on which the claim was submitted, if payment was not received. The bureau of TennCare shall have the authority to make appropriate and reasonable exceptions to the requirements of this subsection (a) upon a showing of good cause.</p> <p>(b) Failure to maintain adequate records is defined as negligently failing to maintain such records as are necessary to disclose fully the nature of the goods, services, items, facilities, or accommodations for which a claim was submitted or payment was received by the managed care organization, provider, vendor, subcontractor, or any other person or entity receiving funds originating from the TennCare program. Records include records kept in any form or fashion, including, but not limited to, any and all medical records, documents, data, or items, electronic or nonelectronic, related to the provision of and billing for services and goods. Failure to maintain adequate records during an audit period is punishable by recovery of one hundred fifty percent (150%) of the amount payable to the person or entity, directly or indirectly, using TennCare funds for the TennCare-related services for which the person or entity has failed to maintain records. Failure to maintain adequate records during a subsequent audit period is punishable by recovery of three hundred percent (300%) of the amount payable to the person or entity, directly or indirectly, using TennCare funds for the TennCare-related services for which the person or entity has failed to maintain records. Any further offense within five (5) years of the second offense may result in a recommendation by the office of inspector general to the bureau of TennCare to restrict the person or entity from receiving future TennCare payments. These matters shall be referred to the attorney general for recovery of funds.</p> <p><b>HISTORY:</b> <a href="#">Acts 2004, ch. 784, § 1</a>; <a href="#">2005, ch. 474, §§ 21</a>, 22.</p> <p>Tenn. Code Ann. § 71-5-2603<br/><b>Fraud reporting requirements -- Immunity from liability.</b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><b>(a)</b> All managed care organizations, contractors, subcontractors, providers or any other person or entity shall advise the office of TennCare inspector general immediately when there is actual knowledge, not subject to a testimonial privilege, that an act of recipient, enrollee, or applicant fraud is being, or has been committed. The office of TennCare inspector general shall review the information to determine if there is a sufficient basis to warrant a full investigation. The office of TennCare inspector general is authorized to establish an electronic system for treating physicians to report recipient, enrollee or applicant fraud.</p> <p><b>(b)</b> All managed care organizations, contractors, subcontractors, providers or any other person or entity shall advise the Medicaid fraud control unit (MFCU) immediately when there is actual knowledge, not subject to a testimonial privilege, that an act of provider fraud is being, or has been committed. The MFCU shall review the information to determine if there is a sufficient basis to warrant a full investigation. MFCU is authorized to establish an electronic system for treating physicians to report provider fraud.</p> <p><b>(c)</b> Any person or entity making a complaint or furnishing a report, information or records in good faith pursuant to this section is immune from civil liability for making such complaint or report.</p> <p><b>(d)</b> Willful failure to report such fraud shall be subject to a civil penalty of not more than ten thousand dollars (\$10,000) for each finding to be assessed by the office of TennCare inspector general.<br/><b>HISTORY:</b> <a href="#"><i>Acts 2004, ch. 784, § 1.</i></a></p> <p>Tenn. Code Ann. § 71-5-2604 - <b>Administrative remedies -- Recovery of costs -- Contested cases -- Rules and regulations -- Final orders.</b></p> <p><b>(a)</b> Without regard to any other civil or criminal liability that might attach, by operation of this section or any other law, the office of inspector general shall have an administrative remedy against an enrollee, recipient, applicant, or person purporting to be an enrollee, recipient, or applicant, who improperly obtains medical assistance benefits or any assistance from the TennCare program, to which the person is not entitled. The office of inspector general shall also have an administrative remedy against any person who assists any enrollee, recipient, or applicant, or purported enrollee, recipient, or applicant in improperly obtaining benefits or assistance.</p> <p><b>(b) (1)</b> The administrative remedy established by this section shall be for the recovery of the amount of:</p> <p><b>(A)</b> Any medical assistance benefits or any assistance improperly paid for by TennCare as a result of any misrepresentation or omission made by the person, to the extent that the amount has not otherwise been recovered by the TennCare bureau; and</p> <p><b>(B)</b> Any unpaid or underpaid premiums that were assessed at a lower monthly amount than would have been set if not for the misrepresentation or omission by the person, to the extent that the amount has not otherwise been recovered by the TennCare bureau.</p> <p><b>(2)</b> All such persons shall be jointly and severally liable to the state of Tennessee.</p> <p><b>(c)</b> The office of inspector general shall also have a right to recover the reasonable costs of proceedings pursuant to this section, including professional fees of court reporters and hearing officers or administrative judges, the reasonable costs of investigating claims arising under this section, reasonable attorney's fees, as well as interest on the amount owed by the person, calculated from the date that the medical assistance or any assistance was improperly received, or from the date the correct premiums should have been paid.</p> <p><b>(d)</b> All costs of medical assistance, or any assistance, or unpaid premiums recouped pursuant to this section, and any interest thereon, shall be paid to the TennCare bureau. All costs of proceedings, investigative costs, and attorney's fees pursuant to this section shall be paid to the office of inspector general, except as otherwise provided.</p> <p><b>(e)</b> Notwithstanding any other law to the contrary, administrative actions pursuant to this section shall be commenced within four (4) years after the date of discovery by the state of the acts of misrepresentation or omission.</p> <p><b>(f)</b> The office of inspector general may invoke the remedy established by this section by initiating a contested case in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. In an administrative action under this subsection (f), the office of the inspector general shall show that the amount sought to be recovered was paid in the form of medical assistance benefits or any assistance as a result of material misrepresentation or omission. The office of inspector general need not show that the misrepresentation or omission was intentional or fraudulent.</p> <p><b>(g)</b> The inspector general shall have authority to promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act, as are necessary to implement this part. The rules shall be promulgated as emergency rules. For purposes of rendering a final order pursuant to the Uniform Administrative Procedures Act, the inspector general is designated the agency person to review initial orders and issue final agency</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>decisions. Orders issued by the inspector general shall have the effect of a final order pursuant to the Uniform Administrative Procedures Act.</p> <p>(h) (1) Whenever an order issued by the inspector general pursuant to this part has become final, a notarized copy of the order may be filed in the office of the clerk of the chancery court of Davidson County.</p> <p>(2) When filed in accordance with this section, a final order shall be considered as a judgment by consent of the parties on the same terms and condition as those recited in the final order. The judgment shall be promptly entered by the court. Except as otherwise provided in this section, the procedure for entry of judgment and the effect of the judgment shall be the same as provided in title 26, chapter 6.</p> <p>(3) A judgment entered pursuant to this section shall become final on the date of entry.</p> <p>(4) A final judgment under this subsection (h) has the same effect, is subject to the same procedures, and may be enforced or satisfied in the same manner, as any other judgment of a court of record of this state.</p> <p><b>HISTORY:</b> <i><a href="#">Acts 2006, ch. 1010, § 2</a>; <a href="#">2009, ch. 566, § 12</a>.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p>Tenn. Code Ann. § 71-5-183 - <b>Civil actions -- Employee remedies.</b></p> <p>(a) If the attorney general and reporter finds that a person has violated or is violating <a href="#">§ 71-5-182</a>, the attorney general and reporter may bring a civil action under this section against the person.</p> <p>(b) (1) A person may bring a civil action for a violation of <a href="#">§ 71-5-182</a> for the person and for the state. The action shall be brought in the name of the state of Tennessee. The action may be dismissed only if the court and the attorney general and reporter or district attorney general give written consent to the dismissal and their reasons for consenting.</p> <p>(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 sixty (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 sixty (60) days after it receives both the complaint and the material evidence and information.</p> <p>(3) The state may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under subdivision (b)(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 twenty (20) days after the complaint is unsealed and served upon the defendant.</p> <p>(4) Before the expiration of the sixty-day period or any extensions obtained under subdivision (b)(3), the state shall:</p> <p>(A) Proceed with the action, in which case the action shall be conducted by the state; or</p> <p>(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.</p> <p>(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.</p> <p>(c) (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 subdivision (c)(2).</p> <p>(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.</p> <p>(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.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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:</p> <p>(i) Limiting the number of witnesses the person may call;</p> <p>(ii) Limiting the length of the testimony of such witnesses;</p> <p>(iii) Limiting the person's cross-examination of witnesses; or</p> <p>(iv) Otherwise limiting the participation by the person in the litigation.</p> <p>(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.</p> <p>(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.</p> <p>(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 sixty (60) 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 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.</p> <p>(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 monetary penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceedings 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 this subdivision (c)(5), a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of jurisdiction, 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.</p> <p>(d) (1) (A) If the state proceeds with an action brought by a person under subsection (a), a person shall, subject to subdivision (d)(1)(B), receive at least fifteen percent (15%) but not more than twenty-five percent (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.</p> <p>(B) 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, report, audit, investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent (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.</p> <p>(C) Any payment to a person under subdivisions (d)(1)(A) and (d)(1)(B) shall be made from the proceeds. Any such 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 such expenses, fees, and costs shall be awarded against the defendant.</p> <p>(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 that the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five percent (25%) and not more than thirty percent (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.</p> <p>(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 <a href="#">§ 71-5-182</a> 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 subdivision (d)(1) or (d)(2), taking into account the role of that person in</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>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 such person's role in the violation of <a href="#">§ 71-5-181</a>, 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.</p> <p>(4) If the state does not proceed with the action and the person bringing the action conducts the action, the court shall 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.</p> <p>(e) (1) In no event may a person bring an action under subsection (b) that is based upon allegations or transactions that are the subject of a civil suit or an administrative civil monetary penalty proceeding in which the state is already a party.</p> <p>(2) (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 in a criminal, civil, or administrative hearing in which the state or its agent is a party; in a state legislative, state comptroller, or other state report, hearing, audit, or investigation; or from the news media, unless the action is brought by the attorney general and reporter or district attorney general or the person bringing the action is an original source of the information.</p> <p>(B) For purpose of this subdivision (e)(2), "original source" means an individual who either prior to a public disclosure under subdivision (e)(2)(A) has voluntarily disclosed to the state 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 state before filing an action under this section.</p> <p>(f) The state is not liable for expenses that a person incurs in bringing an action under this section.</p> <p>(g) 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 (1) or more violations of <a href="#">§§ 71-5-181 -- 71-5-185</a>. The relief shall include reinstatement with the same seniority status the employee, contractor, or agent would have had but for the discrimination, two (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 court for the relief provided in this subsection (g), but may not be brought more than three (3) years after the date when the retaliation occurred.</p> <p>(h) (1) Upon written request of the attorney general and reporter, the bureau of TennCare may bring an action as an administrative proceeding on behalf of the state for recovery under <a href="#">§ 71-5-182</a> against any person specified by the attorney general and reporter other than an enrollee, recipient or applicant, subject to the conditions set forth in this subsection (h).</p> <p>(2) The amount of actual damages that the state may seek in such administrative proceeding shall not exceed twenty-five thousand dollars (\$25,000). This limit shall not apply to any civil penalties or costs that the state is eligible to recover under <a href="#">§ 71-5-182</a> or to <a href="#">§ 71-5-182</a> related to double or treble damages.</p> <p>(3) Notwithstanding <a href="#">§ 71-5-182</a>, the civil penalty for each violation of <a href="#">§ 71-5-182</a> in such administrative proceeding shall be not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000).</p> <p>(4) Any administrative action brought pursuant to this subsection (h) shall be subject to <a href="#">§ 71-5-184</a>.</p> <p>(5) Any administrative action brought pursuant to this subsection (h) shall be initiated as a contested case in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.</p> <p>(6) The bureau of TennCare shall have authority to promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act, as are necessary to implement this subsection (h). For purposes of rendering a final order pursuant to the Uniform Administrative Procedures Act, the bureau of TennCare is designated as the agency to review initial orders and issue final agency decisions. Orders issued by the bureau of TennCare shall have the effect of a final order pursuant to the Uniform Administrative Procedures Act.</p> <p>(7) (A) Whenever an order issued by the bureau of TennCare pursuant to this part has become final, a notarized copy of the order may be filed in the office of the clerk of the chancery court of Davidson County.</p> <p>(B) When filed in accordance with this subsection (h), a final order shall be considered as a judgment by consent of the parties on the same terms and conditions as those recited in the order. The judgment shall be promptly entered by the court. Except as otherwise provided in this subsection (h), the procedure for entry of judgment and the effect of the judgment shall be the same as provided in title 26, chapter 6.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>(C) A judgment entered pursuant to this subsection (h) shall become final on the date of entry.</p> <p>(D) A final judgment under this subsection (h) has the same effect, is subject to the same procedures and may be enforced or satisfied in the same manner as any other judgment of a court of record of this state.</p> <p>(8) Any recovery under this subsection (h) in excess of the amounts paid to reimburse the bureau of TennCare for damages and costs and to other interested parties shall be paid to the attorney general and reporter to be used to investigate and prosecute health care fraud in the TennCare program.</p> <p>(9) This subsection (h) is declared to be remedial in nature and shall be liberally construed to effectuate its purposes.</p> <p><b>HISTORY:</b> <a href="#">Acts 1993, ch. 364, § 3</a>; <a href="#">2005, ch. 474, § 15</a>; <a href="#">2009, ch. 528, §§ 1, 2</a>; <a href="#">2012, ch. 806, §§ 6, 7, 9</a>; <a href="#">2013, ch. 99, § 2</a>.</p> <p><b>Tenn. Code Ann. § 71-5-184 - Service -- Limitations.</b></p> <p>(a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under <a href="#">§ 71-5-183</a> may be served at any place in the United States.</p> <p>(b) A civil action under <a href="#">§ 71-5-183</a> may not be brought:</p> <p>(1) More than six (6) years after the date on which the violation of <a href="#">§ 71-5-182</a> is committed; or</p> <p>(2) 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, but in no event more than ten (10) years after the date on which the violation is committed, whichever occurs last.</p> <p>(c) If the state elects to intervene and proceed with an action brought under <a href="#">§ 71-5-183(b)</a>, the state may file its own complaint or amend the complaint of a person who has brought an action under <a href="#">§ 71-5-183(b)</a> 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.</p> <p>(d) In any action brought under <a href="#">§ 71-5-183</a>, the state shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.</p> <p>(e) Notwithstanding any other law, the Tennessee Rules of Criminal Procedure, or the Tennessee Rules of Evidence, a final judgment rendered in favor of the state 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 stop 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 subsection (a) or (b) or <a href="#">§ 71-5-183</a>.</p> <p><b>HISTORY:</b> <a href="#">Acts 1993, ch. 364, § 4</a>; <a href="#">2012, ch. 806, § 8</a>.</p> <p><b>Tenn. Code Ann. § 71-5-185 - Venue.</b></p> <p>Any action under <a href="#">§ 71-5-183</a> may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one (1) defendant can be found, resides, transacts business, or in which any act proscribed by <a href="#">§ 71-5-182</a> occurred. A summons as required by the Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.</p> <p><b>HISTORY:</b> <a href="#">Acts 1993, ch. 364, § 5</a>.</p> |
|                 | Whistle-blower Protections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |





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|                                                                           | <p>Tenn. Code Ann. § 71-5-183</p> <p><b>Civil actions -- Employee remedies.</b></p> <p><b>(g)</b> 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 (1) or more violations of <a href="#">§§ 71-5-181 -- 71-5-185</a>. The relief shall include reinstatement with the same seniority status the employee, contractor, or agent would have had but for the discrimination, two (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 court for the relief provided in this subsection (g), but may not be brought more than three (3) years after the date when the retaliation occurred.</p> <p><b>HISTORY:</b> <a href="#">Acts 1993, ch. 364, § 3</a>; <a href="#">2005, ch. 474, § 15</a>; <a href="#">2009, ch. 528, §§ 1, 2</a>; <a href="#">2012, ch. 806, §§ 6, 7, 9</a>; <a href="#">2013, ch. 99, § 2</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <a href="#">Texas/</a>                                                    | <b>Criminal and Civil Penalties for False Claims and Statements</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>Tex. Hum. Res. Code § 32.039</p> <p>1 TAC § 371.1617 <i>et seq</i></p> | <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://www.texasattorneygeneral.gov/divisions/law-enforcement/medicaid-fraud-control-unit">https://www.texasattorneygeneral.gov/divisions/law-enforcement/medicaid-fraud-control-unit</a><br/><a href="https://oig.hhs.texas.gov/report-fraud-waste-or-abuse">https://oig.hhs.texas.gov/report-fraud-waste-or-abuse</a></p> <p>Human Resources Code<br/>Title 2 Human Services and Protective Services in General<br/>Subtitle A General Provisions<br/>Chapter 11 General Provisions</p> <p>Tex. Hum. Res. Code § <b>11.001. Definitions.</b></p> <p>In this title:</p> <p><b>(1)</b> "Assistance" means all forms of assistance and services for needy persons authorized by Subtitle C.</p> <p><b>(2)</b> "Commission" means the Health and Human Services Commission.</p> <p><b>(3)</b> "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.</p> <p><b>(4)</b> "Financial assistance" means money payments for needy persons authorized by Chapter 31.</p> <p><b>(5)</b> "Medical assistance" means assistance for needy persons authorized by Chapter 32.</p> <p> <b>History:</b> 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. <a href="#">Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 8.012</a>, effective September 1, 1995; am. <a href="#">Acts 1995, 74th Leg., ch. 920 (H.B. 1662), § 6</a>, effective September 1, 1995; am. <a href="#">Acts 1997, 75th Leg., ch. 980 (H.B. 2577), § 50</a>, effective September 1, 1997; am. <a href="#">Acts 1999, 76th Leg., ch. 1505 (S.B. 374), § 2.01</a>, effective September 1, 2003; am. <a href="#">Acts 2001, 77th Leg., ch. 592 (S.B. 535), § 1</a>, effective September 1, 2001; am. <a href="#">Acts 2003, 78th Leg., ch. 198, § 1.28(3)</a>; effective September 1, 2003; am. <a href="#">Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 4.002</a>, effective April 2, 2015.</p> <p>Human Resources Code<br/>Title 2 Human Services and Protective Services in General<br/>Subtitle C Assistance Programs<br/>Chapter 32 Medical Assistance Program<br/>Subchapter B Administrative Provisions</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>Tex. Hum. Res. Code § 32.039 - <b>Damages and Penalties.</b></p> <p><b>(a)</b> In this section:</p> <p>    <b>(1)</b> "Claim" means an application for payment of health care services under Title XIX of the federal Social Security Act (<a href="#">42 U.S.C. Section 1396</a> et seq.) that is submitted by a person who is under a contract or provider agreement with the commission.</p> <p>    <b>(1-a)</b> "Inducement" includes a service, cash in any amount, entertainment, or any item of value.</p> <p>    <b>(2)</b> "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.</p> <p>    <b>(3)</b> "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.</p> <p>    <b>(4)</b> 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.</p> <p><b>(b)</b> A person commits a violation if the person:</p> <p>    <b>(1)</b> 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;</p> <p>    <b>(1-a)</b> engages in conduct that violates <a href="#">Section 102.001, Occupations Code</a>;</p> <p>    <b>(1-b)</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;</p> <p>    <b>(1-c)</b> 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;</p> <p>    <b>(1-d)</b> 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;</p> <p>    <b>(1-e)</b> 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;</p> <p>    <b>(1-f)</b> provides, offers, or receives an inducement in a manner or for a purpose not otherwise prohibited by this section or <a href="#">Section 102.001, Occupations Code</a>, 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:</p> <p>        <b>(A)</b> selection of a provider or receipt of a good or service under the medical assistance program;</p> <p>        <b>(B)</b> the use of goods or services provided under the medical assistance program; or</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>(C) the inclusion or exclusion of goods or services available under the medical assistance program;</p> <p>(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:</p> <p>(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 ;</p> <p>(B) fails to provide to the commission information required to be provided by law, commission rule, or contractual provision;</p> <p>(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</p> <p>(D) engages in actions that indicate a pattern of:</p> <p>(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</p> <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(c) A person who commits a violation under Subsection (b) is liable to the commission for:</p> <p>(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</p> <p>(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:</p> <p>(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</p> <p>(B) not more than \$ 10,000 for each violation that does not result in injury to a person described by Paragraph (A).</p> <p>(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.</p> <p>(e) In determining the amount of the penalty to be assessed under Subsection (c)(2), the commission shall consider:</p> <p>(1) the seriousness of the violation;</p> <p>(2) whether the person had previously committed a violation; and</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>(3) the amount necessary to deter the person from committing future violations.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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 <a href="#">Section 2001.144, Government Code</a>, the person shall:</p> <p>(1) pay the amount of the penalty;</p> <p>(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</p> <p>(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.</p> <p>(n) A person who acts under Subsection (m)(3) within the 30-day period may:</p> <p>(1) stay enforcement of the penalty by:</p> <p>(A) paying the amount of the penalty to the court for placement in an escrow account; or</p> <p>(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</p> <p>(2) request the court to stay enforcement of the penalty by:</p> <p>(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</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>(B) giving a copy of the affidavit to the executive commissioner by certified mail.</p> <p>(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> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(t) All funds collected under this section shall be deposited in the State Treasury to the credit of the General Revenue Fund.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(1) the person's knowledge of the violation;</p> <p>(2) the likelihood that education provided to the person would be sufficient to prevent future violations;</p> <p>(3) the potential impact on availability of services in the community served by the person; and</p> <p>(4) any other reasonable factor identified by the executive commissioner.</p> <p>(x) Subsections (b)(1-b) through (1-f) do not prohibit a person from engaging in:</p> <p>(1) generally accepted business practices, as determined by commission rule, including:</p> <p>(A) conducting a marketing campaign;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p>(B) providing token items of minimal value that advertise the person's trade name; and</p> <p>(C) providing complimentary refreshments at an informational meeting promoting the person's goods or services;</p> <p>(2) the provision of a value-added service if the person is a managed care organization; or</p> <p>(3) other conduct specifically authorized by law, including conduct authorized by federal safe harbor regulations (42 C.F.R. Section 1001.952).</p> <p> <b>History:</b> 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.</p> <p>TITLE 1. ADMINISTRATION<br/>PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION<br/>CHAPTER 371. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD AND ABUSE PROGRAM INTEGRITY<br/>SUBCHAPTER G. ADMINISTRATIVE ACTIONS AND SANCTIONS<br/>DIVISION 2. GROUNDS FOR ENFORCEMENT</p> <p>1 TAC § 371.1601 - 1 TAC § 371.1669<br/><a href="http://texreg.sos.state.tx.us/public/readtac\$ext.ViewTAC?tac_view=5&amp;ti=1&amp;pt=15&amp;ch=371&amp;sch=G">http://texreg.sos.state.tx.us/public/readtac\$ext.ViewTAC?tac_view=5&amp;ti=1&amp;pt=15&amp;ch=371&amp;sch=G</a></p> <p>TITLE 1. ADMINISTRATION<br/>PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION<br/>CHAPTER 371. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD AND ABUSE PROGRAM INTEGRITY<br/>SUBCHAPTER G. ADMINISTRATIVE ACTIONS AND SANCTIONS<br/>DIVISION 3. ADMINISTRATIVE ACTIONS AND SANCTIONS</p> <p>1 TAC § 371.1701 - 1 TAC § 371.1719<br/>TITLE 1. ADMINISTRATION<br/>PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION<br/>CHAPTER 371. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD AND ABUSE PROGRAM INTEGRITY<br/>SUBCHAPTER G. ADMINISTRATIVE ACTIONS AND SANCTIONS<br/>DIVISION 3. ADMINISTRATIVE ACTIONS AND SANCTIONS<br/><a href="http://texreg.sos.state.tx.us/public/readtac\$ext.ViewTAC?tac_view=5&amp;ti=1&amp;pt=15&amp;ch=371&amp;sch=G&amp;div=3&amp;rl=Y">http://texreg.sos.state.tx.us/public/readtac\$ext.ViewTAC?tac_view=5&amp;ti=1&amp;pt=15&amp;ch=371&amp;sch=G&amp;div=3&amp;rl=Y</a></p> <p><b>Tex. Health &amp; Safety Code § 62.1561</b><br/>The executive commissioner shall adopt rules for prohibiting a person from participating in the child health plan program as a health care provider for a reasonable period, as determined by the executive commissioner, if the person:</p> <p>(1) fails to repay overpayments under the program; or</p> <p>(2) owns, controls, manages, or is otherwise affiliated with and has financial, managerial, or administrative influence over a provider who has been suspended or prohibited from participating in the program.</p> <p> <b>History:</b> Enacted by <a href="#">Acts 2011, 82nd Leg., ch. 980 (H.B. 1720), § 8</a>, effective September 1, 2011; am. Acts 2015, 84th Leg., ch. SB219 (S.B. 219), § 3.0208, effective April 2, 2015.</p> |


| State /Citation                  | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                                  | <div>Qui Tam Actions &amp; Remedies</div> <p>Tex. Gov't Code § 531.101 - [Expires September 1, 2027] Award for Reporting Medicaid Fraud, Abuse, or Overcharges.</p> <p>(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 <a href="#">Section 32.039, Human Resources Code</a>. 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.</p> <p>(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 <a href="#">Section 32.039, Human Resources Code</a>, 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.</p> <p>(c) A person who brings an action under Subchapter C, Chapter 36, Human Resources Code, is not eligible for an award under this section.</p> <p> <b>History:</b> Enacted by <a href="#">Acts 1997, 75th Leg., ch. 165</a> (S.B. 898), effective September 1, 1997; am. <a href="#">Acts 1997, 75th Leg., ch. 1153</a> (S.B. 30), effective September 1, 1997; am. <a href="#">Acts 2003, 78th Leg., ch. 198 (H.B. 2292), § 2.18</a>, effective September 1, 2003; am. Acts 2015, 84th Leg., ch. SB219 (S.B. 219), § 2.129, effective April 2, 2015.</p> <div>Whistle-blower Protections</div> <p>25 TAC § 133.43</p> <p><b>Discrimination or Retaliation Standards</b></p> <p>(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.</p> <p>(b) Discrimination relating to employee reporting a violation of law. In accordance with <a href="#">HSC, § 161.134(a)</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.</p> <p>(c) Retaliation relating to nonemployee reporting a violation of law. In accordance with <a href="#">HSC, § 161.135(a)</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.</p> <p>SOURCE: The provisions of this § 133.43 adopted to be effective June 21, 2007, <a href="#">32 TexReg 3587</a></p> |
| Texas/Medicaid Fraud Prevention  | <div>Criminal and Civil Penalties for False Claims and Statements</div> <p>Report Fraud @ <a href="https://www.hhs.texas.gov/about/your-rights/complaint-incident-intake/how-do-i-report-suspected-fraud-or-misuse-state-resources">https://www.hhs.texas.gov/about/your-rights/complaint-incident-intake/how-do-i-report-suspected-fraud-or-misuse-state-resources</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Tex. Hum. Res. Code § 36.001-132 | Subchapter C Medicaid and Other Health and Human Services Fraud, Abuse, or Overcharges [Expires September 1, 2027]<br><a href="http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.531.htm">http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.531.htm</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Tex. Gov't Code § 531.101-106    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Tex. Penal Code § 35A.02         | CHAPTER 36. MEDICAID FRAUD PREVENTION<br><a href="http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.36.htm">http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.36.htm</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>SUBCHAPTER A. GENERAL PROVISIONS<br/><a href="http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.36.htm#36.001">http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.36.htm#36.001</a></p> <p><i>Tex. Hum. Res. Code § 36.001 - Definitions</i></p> <p>In this chapter:</p> <p>(1) "Claim" means a written or electronically submitted request or demand that:</p> <p>(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 Medicaid recipient as reimbursable under the Medicaid program, without regard to whether the money that is requested or demanded is paid; or</p> <p>(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 the Medicaid program.</p> <p>(2) "Documentary material" means a record, document, or other tangible item of any form, including:</p> <p>(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 Medicaid recipient;</p> <p>(B) a medical, professional, or business record relating to:</p> <p>(i) the provision of a product or service to a Medicaid recipient; or</p> <p>(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 Medicaid recipient as needed to verify the rate or amount;</p> <p>(C) a record required to be kept by an agency that regulates health care providers; or</p> <p>(D) a record necessary to disclose the extent of services a provider furnishes to Medicaid recipients.</p> <p>(3) "Fiscal agent" means:</p> <p>(A) a person who, through a contractual relationship with a state agency, receives, processes, and pays a claim under the Medicaid program; or</p> <p>(B) the designated agent of a person described by Paragraph (A).</p> <p>(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.</p> <p>(5) "Managed care organization" has the meaning assigned by Section 32.039(a).</p> <p>(5-a) "Material" means having a natural tendency to influence or to be capable of influencing.</p> <p>(6) "Medicaid program" means the state Medicaid program.</p> <p>(7) "Medicaid recipient" means an individual on whose behalf a person claims or receives a payment from the Medicaid program or a fiscal agent, without regard to whether the individual was eligible for benefits under the Medicaid program.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                 | <p>(7-a) "Obligation" means a duty, whether or not fixed, that arises from:</p> <p class="list-item">(A) an express or implied contractual, grantor-grantee, or licensor-licensee relationship;</p> <p class="list-item">(B) a fee-based or similar relationship;</p> <p class="list-item">(C) a statute or regulation; or</p> <p class="list-item">(D) the retention of any overpayment.</p> <p>(8) "Physician" means a physician licensed to practice medicine in this state.</p> <p>(9) "Provider" means a person who participates in or who has applied to participate in the Medicaid program as a supplier of a product or service and includes:</p> <p class="list-item">(A) a management company that manages, operates, or controls another provider;</p> <p class="list-item">(B) a person, including a medical vendor, that provides a product or service to a provider or to a fiscal agent;</p> <p class="list-item">(C) an employee of a provider;</p> <p class="list-item">(D) a managed care organization; and</p> <p class="list-item">(E) a manufacturer or distributor of a product for which the Medicaid program provides reimbursement.</p> <p>(10) "Service" includes care or treatment of a Medicaid recipient.</p> <p>(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.</p> <p>(12) "Unlawful act" means an act declared to be unlawful under Section 36.002.</p> <p> <b>History:</b> Enacted by <a href="#">Acts 1995, 74th Leg., ch. 824 (H.B. 2523), § 1</a>, effective September 1, 1995; am. <a href="#">Acts 1997, 75th Leg., ch. 1153 (S.B. 30), §§ 4.01(a), 4.02</a>, effective September 1, 1997; am. <a href="#">Acts 2005, 79th Leg., ch. 806 (S.B. 563), § 1</a>, effective September 1, 2005; am. <a href="#">Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 1</a>, effective September 1, 2011; am. <a href="#">Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 4.179</a>, effective April 2, 2015.</p> <p><b>Tex. Hum. Res. Code § 36.002 - Unlawful Acts</b><br/>A person commits an unlawful act if the person:</p> <p class="list-item">(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 the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;</p> <p class="list-item">(2) knowingly conceals or fails to disclose information that permits a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;</p> <p class="list-item">(3) knowingly applies for and receives a benefit or payment on behalf of another person under the Medicaid program and converts any part of the benefit or payment to a use other than for the benefit of the person</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>on whose behalf it was received;</p> <p>(4) knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning:</p> <p>(A) the conditions or operation of a facility in order that the facility may qualify for certification or recertification required by the Medicaid program, including certification or recertification as:</p> <p>(i) a hospital;</p> <p>(ii) a nursing facility or skilled nursing facility;</p> <p>(iii) a hospice;</p> <p>(iv) an ICF-IID;</p> <p>(v) an assisted living facility; or</p> <p>(vi) a home health agency; or</p> <p>(B) information required to be provided by a federal or state law, rule, regulation, or provider agreement pertaining to the Medicaid program;</p> <p>(5) except as authorized under the Medicaid program, knowingly pays, charges, solicits, accepts, or receives, in addition to an amount paid under the Medicaid 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 Medicaid program;</p> <p>(6) knowingly presents or causes to be presented a claim for payment under the Medicaid program for a product provided or a service rendered by a person who:</p> <p>(A) is not licensed to provide the product or render the service, if a license is required; or</p> <p>(B) is not licensed in the manner claimed;</p> <p>(7) knowingly makes or causes to be made a claim under the Medicaid program for:</p> <p>(A) a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner;</p> <p>(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</p> <p>(C) a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate;</p> <p>(8) makes a claim under the Medicaid 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;</p> <p>(9) conspires to commit a violation of Subdivision (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (12), or (13);</p> <p>(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 the Medicaid program and knowingly:</p> <p>(A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract;</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>(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</p> <p>(C) engages in a fraudulent activity in connection with the enrollment of an individual eligible under the Medicaid program in the organization's managed care plan or in connection with marketing the organization's services to an individual eligible under the Medicaid program;</p> <p>(11) knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section;</p> <p>(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 the Medicaid program, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to this state under the Medicaid program; or</p> <p>(13) knowingly engages in conduct that constitutes a violation under Section 32.039(b).</p> <p> <b>History:</b> Enacted by <a href="#">Acts 1995, 74th Leg., ch. 824 (H.B. 2523), § 1</a>, effective September 1, 1995; am. <a href="#">Acts 1997, 75th Leg., ch. 1153 (S.B. 30), §§ 4</a>,01(a), 4.03, effective September 1, 1997; am. <a href="#">Acts 1999, 76th Leg., ch. 233 (S.B. 93), § 4</a>, effective September 1, 1999; am. <a href="#">Acts 2005, 79th Leg., ch. 806 (S.B. 563), § 3</a>, effective September 1, 2005; am. <a href="#">Acts 2007, 80th Leg., ch. 78 (H.B. 889), § 1</a>, effective September 1, 2007; am. <a href="#">Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 2</a>, effective September 1, 2011; am. <a href="#">Acts 2013, 83rd Leg., ch. 572 (S.B. 746), § 1</a>, effective September 1, 2013; am. <a href="#">Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 4</a>.180, effective April 2, 2015.</p> <p>PENAL CODE<br/>TITLE 7. OFFENSES AGAINST PROPERTY<br/>CHAPTER 35A. MEDICAID FRAUD</p> <p><b>Tex. Penal Code § 35A.02</b></p> <p>§ 35A.02. <b>Medicaid Fraud</b></p> <p>(a) A person commits an offense if the person:</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(4) knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning:</p> <p>(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</p> <p>(B) information required to be provided by a federal or state law, rule, regulation, or provider agreement pertaining to a health care program;</p> <p>(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;</p> <p>(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:</p> <p>(A) is not licensed to provide the product or render the service, if a license is required; or</p> <p>(B) is not licensed in the manner claimed;</p> <p>(7) knowingly makes or causes to be made a claim under a health care program for:</p> <p>(A) a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner;</p> <p>(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</p> <p>(C) a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate;</p> <p>(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;</p> |


| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(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;</p> <p>(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:</p> <p>(A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract;</p> <p>(B) fails to provide or falsifies information required to be provided by law, rule, or contractual provision; or</p> <p>(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;</p> <p>(11) knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section or under <a href="#">Section 32.039</a>, <a href="#">32.0391</a>, or <a href="#">36.002, Human Resources Code</a>; or</p> <p>(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.</p> <p>(b) An offense under this section is:</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(4) a state jail felony if:</p> <p>(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;</p> <p>(B) the offense is committed under Subsection (a)(11); or</p> <p>(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;</p> <p>(5) a felony of the third degree if:</p> <p>(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</p> <p>(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);</p> <p>(6) a felony of the second degree if:</p> <p>(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</p> <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p><b>Credits</b></p> <p>Added by <a href="#">Acts 2005, 79th Leg., ch. 806, § 16, eff. Sept. 1, 2005</a>. Amended by <a href="#">Acts 2007, 80th Leg., ch. 127, § 5, eff. Sept. 1, 2007</a>; <a href="#">Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 8, eff. Sept. 1, 2011</a>; <a href="#">Acts 2011, 82nd Leg., ch. 620 (S.B. 688), § 2, eff. Sept. 1, 2011</a>; <a href="#">Acts 2015, 84th Leg., ch. 1251 (H.B. 1396), § 27, eff. Sept. 1, 2015</a>; <a href="#">Acts 2019, 86th Leg., ch. 381 (H.B. 2894), § 6, eff. Sept. 1, 2019</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>Tex. Hum. Res. Code § 36.051 - <b>Injunctive Relief.</b></p> <p><b>(a)</b> 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.</p> <p><b>(b)</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.</p> <p><b>History:</b> Enacted by <a href="#">Acts 1995, 74th Leg., ch. 824 (H.B. 2523), § 1</a>, effective September 1, 1995; am. <a href="#">Acts 1997, 75th Leg., ch. 1153 (S.B. 30), § 4</a>.01(b), effective September 1, 1997 (renumbered from Sec. 36.003).</p> <p>Tex. Hum. Res. Code § 36.052 - <b>Civil Remedies.</b></p> <p><b>(a)</b> Except as provided by Subsection (c), a person who commits an unlawful act is liable to the state for:</p> <p class="list-item-l1"><b>(1)</b> the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the unlawful act, including any payment made to a third party;</p> <p class="list-item-l1"><b>(2)</b> 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;</p> <p class="list-item-l1"><b>(3)</b> a civil penalty of:</p> <p class="list-item-l2"><b>(A)</b> not less than \$ 5,500 or the minimum amount imposed as provided by <a href="#">31 U.S.C. Section 3729(a)</a>, if that amount exceeds \$ 5,500, and not more than \$ 15,000 or the maximum amount imposed as provided by <a href="#">31 U.S.C. Section 3729(a)</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</p> <p class="list-item-l2"><b>(B)</b> not less than \$ 5,500 or the minimum amount imposed as provided by <a href="#">31 U.S.C. Section 3729(a)</a>, if that amount exceeds \$ 5,500, and not more than \$ 11,000 or the maximum amount imposed as provided by <a href="#">31 U.S.C. Section 3729(a)</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</p> <p class="list-item-l1"><b>(4)</b> two times the amount of the payment or the value of the benefit described by Subdivision (1).</p> <p><b>(b)</b> In determining the amount of the civil penalty described by Subsection (a)(3), the trier of fact shall consider:</p> <p class="list-item-l1"><b>(1)</b> whether the person has previously violated the provisions of this chapter;</p> <p class="list-item-l1"><b>(2)</b> the seriousness of the unlawful act committed by the person, including the nature, circumstances, extent, and gravity of the unlawful act;</p> <p class="list-item-l1"><b>(3)</b> whether the health and safety of the public or an individual was threatened by the unlawful act;</p> <p class="list-item-l1"><b>(4)</b> whether the person acted in bad faith when the person engaged in the conduct that formed the basis of the unlawful act; and</p> <p class="list-item-l1"><b>(5)</b> the amount necessary to deter future unlawful acts.</p> <p><b>(c)</b> 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:</p> <p class="list-item-l1"><b>(1)</b> 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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>(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.</p> <p>(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.</p> <p>(e) The attorney general may:</p> <p>(1) bring an action for civil remedies under this section together with a suit for injunctive relief under Section 36.051; or</p> <p>(2) institute an action for civil remedies independently of an action for injunctive relief.</p> <p> <b>History:</b> Enacted by <a href="#">Acts 1995, 74th Leg., ch. 824 (H.B. 2523), § 1</a>, effective September 1, 1995; am. <a href="#">Acts 1997, 75th Leg., ch. 1153 (S.B. 30), §§ 4.01(b), 4.04</a>, effective September 1, 1997 (renumbered from Sec. 36.004); am. <a href="#">Acts 2005, 79th Leg., ch. 806 (S.B. 563), § 7</a>, effective September 1, 2005; am. <a href="#">Acts 2007, 80th Leg., ch. 29 (S.B. 362), § 1</a>, effective May 4, 2007; am. <a href="#">Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 3</a>, effective September 1, 2011; am. <a href="#">Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 4.183</a>, effective April 2, 2015.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p><b>Tex. Hum. Res. Code § 36.101 - Action by Private Person Authorized</b></p> <p>§ 36.101. Action by Private Person Authorized</p> <p>(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.</p> <p>(b) In an action brought under this subchapter, a person who violates Section 36.002 is liable as provided by Section 36.052.</p> <p> <b>History:</b> Enacted by <a href="#">Acts 1997, 75th Leg., ch. 1153 (S.B. 30), § 4.08</a>, effective September 1, 1997.</p> <p>Tex. Hum. Res. Code § 36.102 - <b>Initiation of Action.</b></p> <p><b>V.T.C.A., Human Resources Code § 36.102</b><br/><b>§ 36.102. Initiation of Action; Consent Required for Dismissal</b><br/><b><u>Currentness</u></b></p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>Credits<br/>Added by <a href="#">Acts 1997, 75th Leg., ch. 1153, § 4.08, eff. Sept. 1, 1997</a>. Amended by <a href="#">Acts 2005, 79th Leg., ch. 806, § 10, eff. Sept. 1, 2005</a>; <a href="#">Acts 2019, 86th Leg., ch. 97 (H.B. 2004), §§ 1, 2, eff. Sept. 1, 2019</a>.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>Tex. Hum. Res. Code § 36.110 - <b>Award to Private Plaintiff.</b></p> <p><b>(a)</b> 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.</p> <p><b>(a-1)</b> 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).</p> <p><b>(b)</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.</p> <p><b>(c)</b> 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.</p> <p><b>(d)</b> In this section, "proceeds of the action" includes proceeds of a settlement of the action.</p> <p> <b>History:</b> Enacted by <a href="#">Acts 1997, 75th Leg., ch. 1153 (S.B. 30), § 4.08</a>, effective September 1, 1997; am. <a href="#">Acts 2005, 79th Leg., ch. 806 (S.B. 563), § 13</a>, effective September 1, 2005; am. <a href="#">Acts 2007, 80th Leg., ch. 29 (S.B. 362), § 5</a>, effective May 4, 2007; am. <a href="#">Acts 2011, 82nd Leg., ch. 398 (S.B. 544), § 4</a>, effective September 1, 2011; am. <a href="#">Acts 2013, 83rd Leg., ch. 572 (S.B. 746), § 3</a>, effective September 1, 2013; am. <a href="#">Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 4.184</a>, effective April 2, 2015</p> <p>Tex. Hum. Res. Code § 36.111 - <b>Reduction of Award.</b></p> <p><b>(a)</b> 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.</p> <p><b>(b)</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.</p> <p> <b>History:</b> Enacted by <a href="#">Acts 1997, 75th Leg., ch. 1153 (S.B. 30), § 4.08</a>, effective September 1, 1997.</p> <p>Tex. Hum. Res. Code § 36.113 - <b>Certain Actions Barred.</b></p> <p><b>(a)</b> 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.</p> <p><b>(b)</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:</p> <p class="margin-left: 40px;"><b>(1)</b> 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</p> <p class="margin-left: 40px;"><b>(2)</b> 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.</p> |

| State /Citation                                                                                     | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                                                                                                     | <p>(c) [Repealed by Acts 2013, 83rd Leg., ch. 572 (S.B. 746), § 6, effective September 1, 2013.]</p> <p> <b>History:</b> 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.</p> <p>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                                                                     | <p><b>Whistle-blower Protections</b></p> <p><b>Tex. Hum. Res. Code § 36.115</b><br/><b>Retaliation by Employer Against Person Bringing Suit Prohibited</b></p> <p>§ 36.115. Retaliation by Employer Against Person Bringing Suit Prohibited</p> <p>(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:</p> <p>(1) reinstatement with the same seniority status the person would have had but for the discrimination; and</p> <p>(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.</p> <p>(b) A person may bring an action in the appropriate district court for the relief provided in this section.</p> <p>(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.</p> <p><b>HISTORY:</b> 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.</p> |
| <p><u>Utah</u><br/>Utah Code Ann. § 26-20-1 et seq.</p> <p>U.A.C. R414-22-1 to U.A.C. R414-22-4</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud:<br/><a href="https://medicaid.utah.gov/reporting-fraud">https://medicaid.utah.gov/reporting-fraud</a><br/><a href="https://attorneygeneral.utah.gov/about/dept/criminal/mfcu/">https://attorneygeneral.utah.gov/about/dept/criminal/mfcu/</a><br/><a href="https://attorneygeneral.utah.gov/mfcu/">https://attorneygeneral.utah.gov/mfcu/</a></p> <p>Utah Code Ann. § 26B-3-1101 et seq. – <b>False Claims Act</b><br/>UT ST § 26B-3-1101<br/>This chapter is known as the "<b>Utah False Claims Act.</b>"<br/><a href="https://le.utah.gov/xcode/Title26B/Chapter3/26B-3-P11.html?v=C26B-3-P11_2023050320230503">https://le.utah.gov/xcode/Title26B/Chapter3/26B-3-P11.html?v=C26B-3-P11_2023050320230503</a><br/><b>2023 Utah Laws Ch. 306</b><br/><b>Part 11. Utah False Claims Act</b><br/>&lt;&lt; UT ST § 26B–3–1101 &gt;&gt;<br/><b>§ 26B–3–1101. Definitions</b><br/>As used in this part:</p> <p>(1) “Benefit” means the receipt of money, goods, or any other thing of pecuniary value.</p> <p>(2) “Claim” means any request or demand for money or property:</p> <p>(a) made to any:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>(i) employee, officer, or agent of the state;<br/>(ii) contractor with the state; or<br/>(iii) grantee or other recipient, whether or not under contract with the state; and<br/>(b) if:<br/>(i) any portion of the money or property requested or demanded was issued from or provided by the state; or<br/>(ii) the state will reimburse the contractor, grantee, or other recipient for any portion of the money or property.<br/>(3) “False statement” or “false representation” means a wholly or partially untrue statement or representation which is:<br/>(a) knowingly made; and<br/>(b) a material fact with respect to the claim.<br/>(4) “Knowing” and “knowingly”:<br/>(a) for purposes of criminal prosecutions for violations of this part, is one of the culpable mental states described in Subsection 26B–3–1108(1); and<br/>(b) for purposes of civil prosecutions for violations of this part, is the required culpable mental state as defined in Subsection 26B–3–1109(1).<br/>(5) “Medical benefit” means a benefit paid or payable to a recipient or a provider under a program administered by the state under:<br/>(a) Titles V and XIX of the federal Social Security Act;<br/>(b) Title X of the federal Public Health Services Act;<br/>(c) the federal Child Nutrition Act of 1966 as amended by Pub. L. No. 94–105; and<br/>(d) any programs for medical assistance of the state.<br/>(6) “Person” means an individual, corporation, unincorporated association, professional corporation, partnership, or other form of business association.<br/>Section 162. Section 26B–3–1102, which is renumbered from Section 26–20–3 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1102 &gt;&gt;<br/>§ 26B–3–1102. False statement or representation relating to medical benefits<br/>(1) A person may not make or cause to be made a false statement or false representation of a material fact in an application for medical benefits.<br/>(2) A person may not make or cause to be made a false statement or false representation of a material fact for use in determining rights to a medical benefit.<br/>(3) A person, who having knowledge of the occurrence of an event affecting the person's initial or continued right to receive a medical benefit or the initial or continued right of any other person on whose behalf the person has applied for or is receiving a medical benefit, may not conceal or fail to disclose that event with intent to obtain a medical benefit to which the person or any other person is not entitled or in an amount greater than that to which the person or any other person is entitled.<br/>Section 163. Section 26B–3–1103, which is renumbered from Section 26–20–4 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1103 &gt;&gt;<br/>§ 26B–3–1103. Kickbacks or bribes prohibited<br/>(1) For purposes of this section, kickback or bribe:<br/>(a) includes rebates, compensation, or any other form of remuneration which is:<br/>(i) direct or indirect;<br/>(ii) overt or covert; or<br/>(iii) in cash or in kind; and<br/>(b) does not include a rebate paid to the state under 42 U.S.C. Sec. 1396r–8 or any state supplemental rebates.<br/>(2) A person may not solicit, offer, pay, or receive a kickback or bribe in return for or to induce:<br/>(a) the purchasing, leasing, or ordering of any goods or services for which payment is or may be made in whole or in part pursuant to a medical benefit program; or<br/>(b) the referral of an individual to another person for the furnishing of any goods or services for which payment is or may be made in whole or in part pursuant to a medical benefit program.<br/>Section 164. Section 26B–3–1104, which is renumbered from Section 26–20–5 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1104 &gt;&gt;<br/>§ 26B–3–1104. False statements or false representations relating to qualification of health institution or facility prohibited—Felony</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>(1) A person may not knowingly, intentionally, or recklessly make, induce, or seek to induce, the making of a false statement or false representation of a material fact with respect to the conditions or operation of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, or home health agency.</p> <p>(2) A person who violates this section is guilty of a second degree felony.</p> <p>Section 165. Section 26B–3–1105, which is renumbered from Section 26–20–6 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1105 &gt;&gt;</p> <p>§ 26B–3–1105. Conspiracy to defraud prohibited</p> <p>A person may not enter into an agreement, combination, or conspiracy to defraud the state by obtaining or aiding another to obtain the payment or allowance of a false, fictitious, or fraudulent claim for a medical benefit.</p> <p>Section 166. Section 26B–3–1106, which is renumbered from Section 26–20–7 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1106 &gt;&gt;</p> <p>§ 26B–3–1106. False claims for medical benefits prohibited</p> <p>(1) A person may not make or present or cause to be made or presented to an employee or officer of the state a claim for a medical benefit:</p> <p>(a) which is wholly or partially false, fictitious, or fraudulent;</p> <p>(b) for services which were not rendered or for items or materials which were not delivered;</p> <p>(c) which misrepresents the type, quality, or quantity of items or services rendered;</p> <p>(d) representing charges at a higher rate than those charged by the provider to the general public;</p> <p>(e) for items or services which the person or the provider knew were not medically necessary in accordance with professionally recognized standards;</p> <p>(f) which has previously been paid;</p> <p>(g) for services also covered by one or more private sources when the person or provider knew of the private sources without disclosing those sources on the claim; or</p> <p>(h) where a provider:</p> <p>(i) unbundles a product, procedure, or group of procedures usually and customarily provided or performed as a single billable product or procedure into artificial components or separate procedures; and</p> <p>(ii) bills for each component of the product, procedure, or group of procedures:</p> <p>(A) as if they had been provided or performed independently and at separate times; and</p> <p>(B) the aggregate billing for the components exceeds the amount otherwise billable for the usual and customary single product or procedure.</p> <p>(2) In addition to the prohibitions in Subsection (1), a person may not:</p> <p>(a) fail to credit the state for payments received from other sources;</p> <p>(b) recover or attempt to recover payment in violation of the provider agreement from:</p> <p>(i) a recipient under a medical benefit program; or</p> <p>(ii) the recipient's family;</p> <p>(c) falsify or alter with intent to deceive, any report or document required by state or federal law, rule, or Medicaid provider agreement;</p> <p>(d) retain any unauthorized payment as a result of acts described by this section; or</p> <p>(e) aid or abet the commission of any act prohibited by this section.</p> <p>Section 167. Section 26B–3–1107, which is renumbered from Section 26–20–8 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1107 &gt;&gt;</p> <p>§ 26B–3–1107. Knowledge of past acts not necessary to establish fact that false statement or representation knowingly made</p> <p>In prosecution under this part, it is not necessary to show that the person had knowledge of similar acts having been performed in the past on the part of persons acting on his behalf nor to show that the person had actual notice that the acts by the persons acting on his behalf occurred to establish the fact that a false statement or representation was knowingly made.</p> <p>Section 168. Section 26B–3–1108, which is renumbered from Section 26–20–9 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1108 &gt;&gt;</p> <p>§ 26B–3–1108. Criminal penalties</p> <p>(1)(a) Except as provided in Subsection (1)(b) the culpable mental state required for a criminal violation of this part is knowingly, intentionally, or recklessly as defined in Section 76–2–103.</p> <p>(b) The culpable mental state required for a criminal violation of this part for kickbacks and bribes under Section 26B–3–1103 is knowingly and intentionally as defined in Section 76–2–103.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>(2) The punishment for a criminal violation of any provision of this part, except as provided under Section 26B–3–1104, is determined by the cumulative value of the funds or other benefits received or claimed in the commission of all violations of a similar nature, and not by each separate violation.</p> <p>(3) Punishment for criminal violation of this part, except as provided under Section 26B–3–1104, is a felony of the second degree, felony of the third degree, class A misdemeanor, or class B misdemeanor based on the dollar amounts as prescribed by Subsection 76–6–412(1) for theft of property and services.</p> <p>Section 169. Section 26B–3–1109, which is renumbered from Section 26–20–9.5 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1109 &gt;&gt;</p> <p>§ 26B–3–1109. Civil penalties</p> <p>(1) The culpable mental state required for a civil violation of this part is “knowing” or “knowingly” which:</p> <p>(a) means that person, with respect to information:</p> <p>(i) has actual knowledge of the information;</p> <p>(ii) acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(iii) acts in reckless disregard of the truth or falsity of the information; and</p> <p>(b) does not require a specific intent to defraud.</p> <p>(2) Any person who violates this part shall, in all cases, in addition to other penalties provided by law, be required to:</p> <p>(a) make full and complete restitution to the state of all damages that the state sustains because of the person's violation of this part;</p> <p>(b) pay to the state its costs of enforcement of this part in that case, including the cost of investigators, attorneys, and other public employees, as determined by the state; and</p> <p>(c) pay to the state a civil penalty equal to:</p> <p>(i) three times the amount of damages that the state sustains because of the person's violation of this part; and</p> <p>(ii) not less than \$5,000 or more than \$10,000 for each claim filed or act done in violation of this part.</p> <p>(3) Any civil penalties assessed under Subsection (2) shall be awarded by the court as part of its judgment in both criminal and civil actions.</p> <p>(4) A criminal action need not be brought against a person in order for that person to be civilly liable under this section.</p> <p>Section 170. Section 26B–3–1110, which is renumbered from Section 26–20–10 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1110 &gt;&gt;</p> <p>§ 26B–3–1110. Revocation of license of assisted living facility—Appointment of receiver</p> <p>(1) If the license of an assisted living facility is revoked for violation of this part, the county attorney may file a petition with the district court for the county in which the facility is located for the appointment of a receiver.</p> <p>(2) The district court shall issue an order to show cause why a receiver should not be appointed returnable within five days after the filing of the petition.</p> <p>(3)(a) If the court finds that the facts warrant the granting of the petition, the court shall appoint a receiver to take charge of the facility.</p> <p>(b) The court may determine fair compensation for the receiver.</p> <p>(4) A receiver appointed pursuant to this section shall have the powers and duties prescribed by the court.</p> <p>Section 171. Section 26B–3–1111, which is renumbered from Section 26–20–11 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1111 &gt;&gt;</p> <p>§ 26B–3–1111. Presumption based on paid state warrant—Value of medical benefits—Repayment of benefits</p> <p>(1) In any civil or criminal action brought under this part, a paid state warrant, made payable to the order of a party, creates a presumption that the party received funds from the state.</p> <p>(2) In any civil or criminal action brought under this part, the value of the benefits received shall be the ordinary or usual charge for similar benefits in the private sector.</p> <p>(3) In any criminal action under this part, the repayment of funds or other benefits obtained in violation of the provisions of this part does not constitute a defense to, or grounds for dismissal of that action.</p> <p>Section 172. Section 26B–3–1112, which is renumbered from Section 26–20–12 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1112 &gt;&gt;</p> <p>§ 26B–3–1112. Violation of other laws</p> <p>(1) The provisions of this part are:</p> <p>(a) not exclusive, and the remedies provided for in this part are in addition to any other remedies provided for under:</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>(i) any other applicable law; or</p> <p>(ii) common law; and</p> <p>(b) to be liberally construed and applied to:</p> <p>(i) effectuate the chapter's remedial and deterrent purposes; and</p> <p>(ii) serve the public interest.</p> <p>(2) If any provision of this part or the application of this part to any person or circumstance is held unconstitutional:</p> <p>(a) the remaining provisions of this part are not affected; and</p> <p>(b) the application of this part to other persons or circumstances are not affected.</p> <p>Section 173. Section 26B–3–1113, which is renumbered from Section 26–20–13 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1113 &gt;&gt;</p> <p>§ 26B–3–1113. Medicaid fraud enforcement</p> <p>(1) This part shall be enforced in accordance with this section.</p> <p>(2) The department is responsible for:</p> <p>(a)(i) investigating and prosecuting suspected civil violations of this part; or</p> <p>(ii) referring suspected civil violations of this part to the attorney general for investigation and prosecution; and</p> <p>(b) promptly referring suspected criminal violations of this part to the attorney general for criminal investigation and prosecution.</p> <p>(3) The attorney general has:</p> <p>(a) concurrent jurisdiction with the department for investigating and prosecuting suspected civil violations of this part; and</p> <p>(b) exclusive jurisdiction to investigate and prosecute all suspected criminal violations of this part.</p> <p>(4) The department and the attorney general share concurrent civil enforcement authority under this part and may enter into an interagency agreement regarding the investigation and prosecution of violations of this part in accordance with this section, the requirements of Title XIX of the federal Social Security Act, and applicable federal regulations.</p> <p>(5)(a) Any violation of this part which comes to the attention of any state government officer or agency shall be reported to the attorney general or the department.</p> <p>(b) All state government officers and agencies shall cooperate with and assist in any prosecution for violation of this part.</p> <p>Section 174. Section 26B–3–1114, which is renumbered from Section 26–20–14 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1114 &gt;&gt;</p> <p>§ 26B–3–1114. Investigations—Civil investigative demands</p> <p>(1) The attorney general may take investigative action under Subsection (2) if the attorney general has reason to believe that:</p> <p>(a) a person has information or custody or control of documentary material relevant to the subject matter of an investigation of an alleged violation of this part;</p> <p>(b) a person is committing, has committed, or is about to commit a violation of this part; or</p> <p>(c) it is in the public interest to conduct an investigation to ascertain whether or not a person is committing, has committed, or is about to commit a violation of this part.</p> <p>(2) In taking investigative action, the attorney general may:</p> <p>(a) require the person to file on a prescribed form a statement in writing, under oath or affirmation describing:</p> <p>(i) the facts and circumstances concerning the alleged violation of this part; and</p> <p>(ii) other information considered necessary by the attorney general;</p> <p>(b) examine under oath a person in connection with the alleged violation of this part; and</p> <p>(c) in accordance with Subsections (7) through (18), execute in writing, and serve on the person, a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying of the material.</p> <p>(3) The attorney general may not release or disclose information that is obtained under Subsection (2)(a) or (b), or any documentary material or other record derived from the information obtained under Subsection (2)(a) or (b), except:</p> <p>(a) by court order for good cause shown;</p> <p>(b) with the consent of the person who provided the information;</p> <p>(c) to an employee of the attorney general or the department;</p> <p>(d) to an agency of this state, the United States, or another state;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                 | <p>(e) to a special assistant attorney general representing the state in a civil action;</p> <p>(f) to a political subdivision of this state; or</p> <p>(g) to a person authorized by the attorney general to receive the information.</p> <p>(4) The attorney general may use documentary material derived from information obtained under Subsection (2)(a) or (b), or copies of that material, as the attorney general determines necessary in the enforcement of this part, including presentation before a court.</p> <p>(5)(a) If a person fails to file a statement as required by Subsection (2)(a) or fails to submit to an examination as required by Subsection (2)(b), the attorney general may file in district court a complaint for an order to compel the person to within a period stated by court order:</p> <p>(i) file the statement required by Subsection (2)(a); or</p> <p>(ii) submit to the examination required by Subsection (2)(b).</p> <p>(b) Failure to comply with an order entered under Subsection (5)(a) is punishable as contempt.</p> <p>(6) A civil investigative demand shall:</p> <p>(a) state the rule or statute under which the alleged violation of this part is being investigated;</p> <p>(b) describe the:</p> <p>(i) general subject matter of the investigation; and</p> <p>(ii) class or classes of documentary material to be produced with reasonable specificity to fairly indicate the documentary material demanded;</p> <p>(c) designate a date within which the documentary material is to be produced; and</p> <p>(d) identify an authorized employee of the attorney general to whom the documentary material is to be made available for inspection and copying.</p> <p>(7) A civil investigative demand may require disclosure of any documentary material that is discoverable under the Utah Rules of Civil Procedure.</p> <p>(8) Service of a civil investigative demand may be made by:</p> <p>(a) delivering an executed copy of the demand to the person to be served or to a partner, an officer, or an agent authorized by appointment or by law to receive service of process on behalf of that person;</p> <p>(b) delivering an executed copy of the demand to the principal place of business in this state of the person to be served; or</p> <p>(c) mailing by registered or certified mail an executed copy of the demand addressed to the person to be served:</p> <p>(i) at the person's principal place of business in this state; or</p> <p>(ii) if the person has no place of business in this state, to the person's principal office or place of business.</p> <p>(9) Documentary material demanded in a civil investigative demand shall be produced for inspection and copying during normal business hours at the office of the attorney general or as agreed by the person served and the attorney general.</p> <p>(10) The attorney general may not produce for inspection or copying or otherwise disclose the contents of documentary material obtained pursuant to a civil investigative demand except:</p> <p>(a) by court order for good cause shown;</p> <p>(b) with the consent of the person who produced the information;</p> <p>(c) to an employee of the attorney general or the department;</p> <p>(d) to an agency of this state, the United States, or another state;</p> <p>(e) to a special assistant attorney general representing the state in a civil action;</p> <p>(f) to a political subdivision of this state; or</p> <p>(g) to a person authorized by the attorney general to receive the information.</p> <p>(11)(a) With respect to documentary material obtained pursuant to a civil investigative demand, the attorney general shall prescribe reasonable terms and conditions allowing such documentary material to be available for inspection and copying by the person who produced the material or by an authorized representative of that person.</p> <p>(b) The attorney general may use such documentary material or copies of it as the attorney general determines necessary in the enforcement of this part, including presentation before a court.</p> <p>(12)(a) A person may file a complaint, stating good cause, to extend the return date for the demand or to modify or set aside the demand.</p> <p>(b) A complaint under this Subsection (12) shall be filed in district court before the earlier of:</p> <p>(i) the return date specified in the demand; or</p> <p>(ii) the 20th day after the date the demand is served.</p> <p>(13) Except as provided by court order, a person who has been served with a civil investigative demand shall comply with the terms of the demand.</p> <p>(14)(a) A person who has committed a violation of this part in relation to the Medicaid program in this state or to any other medical benefit program administered by the state has submitted to the jurisdiction of this state.</p> <p>(b) Personal service of a civil investigative demand under this section may be made on the person described in Subsection (14)(a) outside of this state.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(15) This section does not limit the authority of the attorney general to conduct investigations or to access a person's documentary materials or other information under another state or federal law, the Utah Rules of Civil Procedure, or the Federal Rules of Civil Procedure.</p> <p>(16) The attorney general may file a complaint in district court for an order to enforce the civil investigative demand if:</p> <p>(a) a person fails to comply with a civil investigative demand; or</p> <p>(b) copying and reproduction of the documentary material demanded:</p> <p>(i) cannot be satisfactorily accomplished; and</p> <p>(ii) the person refuses to surrender the documentary material.</p> <p>(17) If a complaint is filed under Subsection (16), the court may determine the matter presented and may enter an order to enforce the civil investigative demand.</p> <p>(18) Failure to comply with a final order entered under Subsection (17) is punishable by contempt.</p> <p>Section 175. Section 26B–3–1115, which is renumbered from Section 26–20–15 is renumbered and amended to read:</p> <p>&lt;&lt; UT ST § 26B–3–1115 &gt;&gt;</p> <p>§ 26B–3–1115. Limitation of actions—Civil acts antedating this section—Civil burden of proof—Estoppel—Joint civil liability—Venue</p> <p>(1) An action under this part may not be brought after the later of:</p> <p>(a) six years after the date on which the violation was committed; or</p> <p>(b) three years after the date an official of the state charged with responsibility to act in the circumstances discovers the violation, but in no event more than 10 years after the date on which the violation was committed.</p> <p>(2) A civil action brought under this part may be brought for acts occurring prior to the effective date of this section if the limitations period set forth in Subsection (1) has not lapsed.</p> <p>(3) In any civil action brought under this part the state shall be required to prove by a preponderance of evidence, all essential elements of the cause of action including damages.</p> <p>(4) Notwithstanding any other provision of law, a final judgment rendered in favor of the state in any criminal proceeding under this part, 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 under this part which involves the same transaction.</p> <p>(5) Civil liability under this part shall be joint and several for a violation committed by two or more persons.</p> <p>(6) Any action brought by the state under this part shall be brought in district court in Salt Lake County or in any county where the defendant resides or does business.</p> <p>R414. HEALTH CARE FINANCING, COVERAGE AND REIMBURSEMENT POLICY.</p> <p>R414-22. ADMINISTRATIVE SANCTION PROCEDURES AND REGULATIONS.</p> <p>U.A.C. R414-22-4</p> <p><b>Grounds for Sanctioning Providers.</b></p> <p>The Department may impose sanctions against a provider who:</p> <p>(1) knowingly presents, or cause to be presented, to Medicaid any false or fraudulent claim, other than simple billing errors, for services or merchandise; or</p> <p>(2) knowingly submits, or cause to be submitted, false information for the purpose of obtaining greater Medicaid reimbursement than the provider is legally entitled to; or</p> <p>(3) knowingly submits, or cause to be submitted, for Medicaid reimbursement any claims on behalf of a provider who has been terminated or suspended from the Medicaid program, unless the claims for that provider were included for services or supplies provided prior to his suspension or termination from the Medicaid program; or</p> <p>(4) knowingly submits, or cause to be submitted, false information for the purpose of meeting Medicaid prior authorization requirements; or</p> <p>(5) fails to keep records that are necessary to substantiate services provided to Medicaid recipients; or</p> <p>(6) fails to disclose or make available to the Department, its authorized agents, or the State Medicaid Fraud Control Unit, records or services provided to Medicaid members or records of payments made for those services;</p> <p>or</p> <p>(7) fails to provide services to Medicaid members in accordance with accepted medical community standards as adjudged by either a body of peers or appropriate state regulatory agencies; or</p> <p>(8) breaches the terms of the Medicaid provider agreement; or</p> <p>(9) fails to comply with the terms of the provider certification on the Medicaid claim form; or</p> <p>(10) overutilizes the Medicaid program by inducing, providing, or otherwise causing a Medicaid member to receive services or merchandise that is not medically necessary; or</p> <p>(11) rebates or accepts a fee or portion of a fee or charge for a Medicaid member referral; or</p> <p>(12) violates the provisions of the Medical Assistance Act under Title 26, Chapter 18, or any other applicable rule or regulation; or</p> <p>(13) knowingly submits a false or fraudulent application for Medicaid provider status; or</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(14) violates any laws or regulations governing the conduct of health care occupations, professions, or regulated industries; or</p> <p>(15) is convicted of a criminal offense relating to performance as a Medicaid provider; or</p> <p>(16) conducts a negligent practice resulting in death or injury to a patient as determined in a judicial proceeding; or</p> <p>(17) fails to comply with standards required by state or federal laws and regulations for continued participation in the Medicaid program; or</p> <p>(18) conducts a documented practice of charging Medicaid members for Medicaid covered services over and above amounts paid by the Department unless there is a written agreement signed by the member that such charges will be paid by the member; or</p> <p>(19) refuses to execute a new Medicaid provider agreement when doing so is necessary to ensure compliance with state or federal law or regulations; or</p> <p>(20) fails to correct any deficiencies listed in a Statement of Deficiencies and Plan of Correction, CMS Form 2567, in provider operations within a specific time frame agreed to by the Department and the provider, or pursuant to a court or formal administrative hearing decision; or</p> <p>(21) is suspended or terminated from participation in Medicare for failure to comply with the laws and regulation governing that program; or</p> <p>(22) fails to obtain or maintain all licenses required by state or federal law to legally provide Medicaid services; or</p> <p>(23) fails to repay or make arrangements for repayment of any identified Medicaid overpayments, or otherwise erroneous payments, as required by the State Plan, court order, or formal administrative hearing decision.</p> <p>(24) The Department may sanction a Medicaid provider who has a current suspension from DOPL or another state's equivalent agency.</p> <p>(25) The Provider Sanction Committee may sanction a provider for significant misconduct or substantial evidence of misconduct that creates a substantial risk of harm to the Medicaid program.</p> <p>(26) If after review, the Provider Sanction Committee finds there is prior misconduct outlined in Section R414-22-3 or Section R414-22-4, the committee retains discretionary authority to not renew a provider agreement, to not reinstate a provider agreement, and to not enroll a provider until the provider has completed all requirements deemed necessary by the committee.</p> <p>KEY: Medicaid</p> <p><b>Credits</b></p> <p>Date of Enactment or Last Substantive Amendment: November 14, 2012; amended eff. Feb. 14, 2020</p> <p>U.A.C. R414-22-3</p> <p><b>Grounds for Excluding Providers.</b></p> <p>(1) Upon learning of the crime, misdemeanor or misconduct, the Department shall exclude a prospective Medicaid provider who:</p> <p>(a) has a current suspension from the Division of Professional and Occupational Licensing (DOPL) or another state's equivalent agency for sexual misconduct with a child, minor, or non-consenting adult under Title 76 of the Criminal Code; or</p> <p>(b) is serving any term, completing any associated probation or parole, or still making complete court imposed restitution for a felony conviction involving:</p> <p>(i) a sexual crime;</p> <p>(ii) a controlled substance; or</p> <p>(iii) health care fraud; or</p> <p>(c) is serving any term, completing any associated probation or parole, or still making complete court imposed restitution for a misdemeanor conviction that involves a controlled substance.</p> <p>(2) Upon learning of the crime, misdemeanor or misconduct, the Department shall terminate a current Medicaid provider for any violation stated in Subsection R414-22-3(1).</p> <p>(3) If a prospective or current Medicaid provider has a current restriction or probation on their license from DOPL or another state's equivalent agency to treat only a certain age group or gender, or DOPL requires another medical professional to supervise and restrict the provider's activity, then the Department will require the provider to submit the same documentation to the Department that the provider is required to submit to DOPL or another state's equivalent agency to demonstrate compliance with the restriction. Failure to submit such documentation to the Department is a basis for suspension or termination of enrollment with Medicaid.</p> <p>(4) Subject to approval of the Provider Sanction Committee, the Department may enroll a provider who has served any term, completed any associated probation or parole, or made complete court-imposed restitution for a prior felony conviction involving:</p> <p>(a) a sexual crime;</p> <p>(b) a controlled substance; or</p> <p>(c) health care fraud.</p> <p>(5) Subject to approval of the Provider Sanction Committee, the Department may enroll a provider or allow a provider to remain in the Medicaid program if the provider has a previous restriction, suspension, or probation from DOPL for sexual misconduct with a child, minor, or non-consenting adult under Title 76 of the Criminal Code.</p> <p>(6) Subject to approval of the Provider Sanction Committee, the Department may allow a provider to remain in the Medicaid program when the Office of Inspector General of Medicaid Services has recommended the program consider termination of the provider.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>(7) The Provider Sanction Committee may consider the need to maintain member access to services when making a determination related to convictions or sanctions described in Subsection R414-22-3(4), (5), or (6).</p> <p>(8) The Provider Sanction Committee may use any grounds described in Section R414-22-4 to exclude providers from Medicaid.</p> <p>(9) The Department may exclude a prospective Medicaid provider who has a current suspension from DOPL or another state's equivalent agency.</p> <p>(10) The Provider Sanction Committee may exclude a prospective provider for significant misconduct or substantial evidence of misconduct that creates a substantial risk of harm to the Medicaid program.</p> <p>(11) If after review, the Provider Sanction Committee finds there is prior misconduct outlined in Section R414-22-3 or Section R414-22-4, the committee retains discretionary authority to not renew a provider agreement, to not reinstate a provider agreement, and to not enroll a provider until the provider has completed all requirements deemed necessary by the committee.</p> <p>KEY: Medicaid</p> <p><b>Credits</b></p> <p>Date of Enactment or Last Substantive Amendment: November 14, 2012; amended eff. Feb. 14, 2020</p> <p><b>R414-22-5. Sanctions.</b></p> <p>Sanctions for violating any subsection of Section R414-22-4 are:</p> <p>Sanctions for violating any subsection of Section R414-22-4 are:</p> <p>(1) Termination from participation in the Medicaid program; or</p> <p>(2) Suspension of participation in the Medicaid program.</p> <p>AUTHORITY:</p> <p><a href="#">Utah Code Section 26-1-5, 26-18-3(7)</a></p> <p>HISTORY: 13554, 5YR, 11/15/92; 20653, 5YR, 01/13/98; 20653, 5YR, 01/13/98; 20654, AMD, 03/19/98; 25901, 5YR, 12/31/2002; 30826, 5YR, 12/12/2007; 34995, AMD, 08/22/2011; 36710, AMD, 11/14/2012; 37075, 5YR, 11/26/2012</p> <p><b>U.A.C. R414-22-7 - Scope of Sanction.</b></p> <p>(1) Once a provider is suspended or terminated, the Department shall only pay claims for services provided prior to the suspension or termination.</p> <p>(2) The Department may suspend or terminate any individual, clinic, group, corporation, or other similar organization, who allows a sanctioned provider to bill Medicaid under the clinic, group, corporation or organization provider number.</p> <p>AUTHORITY: <a href="#">Utah Code Section 26-1-5, 26-18-3(7)</a></p> <p>HISTORY: 13554, 5YR, 11/15/92; 20653, 5YR, 01/13/98; 20653, 5YR, 01/13/98; 20654, AMD, 03/19/98; 25901, 5YR, 12/31/2002; 30826, 5YR, 12/12/2007; 34995, AMD, 08/22/2011; 36710, AMD, 11/14/2012; 37075, 5YR, 11/26/2012.</p> |
|                 | Qui Tam Actions & Remedies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                 | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                 | Whistle-blower Protections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                 | <p>Utah Code Ann. § 67-21-1</p> <p>This chapter is known as the "<b>Utah Protection of Public Employees Act.</b>"</p> <p><a href="http://le.utah.gov/xcode/Title67/Chapter21/67-21.html?v=C67-21_1800010118000101">http://le.utah.gov/xcode/Title67/Chapter21/67-21.html?v=C67-21_1800010118000101</a></p> <p>Utah Code Ann. § 67-21-2</p> <p><b>Definitions</b></p> <p><a href="http://le.utah.gov/xcode/Title67/Chapter21/67-21-S2.html?v=C67-21-S2_1800010118000101">http://le.utah.gov/xcode/Title67/Chapter21/67-21-S2.html?v=C67-21-S2_1800010118000101</a></p> <p><b>Utah Code Ann. § 67-21-3 - Reporting of governmental waste or violations of law -- Employer action -- Exceptions</b></p> <p><a href="http://le.utah.gov/xcode/Title67/Chapter21/67-21-S3.html">http://le.utah.gov/xcode/Title67/Chapter21/67-21-S3.html</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| State /Citation                                                                                                                  | False Claims Laws                                                                                                                                                                                                                                                                                 |
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| <u>Vermont</u><br>32 V.S.A. § 630 et seq.<br><br>33 V.S.A. § 141 to § 144<br><br>13 V.S.A. § 3016<br><br><br><br>21 V.S.A. § 507 | <b>Criminal and Civil Penalties for False Claims and Statements</b><br><b>riminal and Civil Penalties for False Claims and Statements</b>                                                                                                                                                         |
|                                                                                                                                  | Other Helpful Information About Medicaid Fraud & Reporting Fraud:<br><br><a href="https://ago.vermont.gov/medicaid-fraud/">https://ago.vermont.gov/medicaid-fraud/</a><br><a href="https://dvha.vermont.gov/providers/program-integrity">https://dvha.vermont.gov/providers/program-integrity</a> |
|                                                                                                                                  | VERMONT FALSE CLAIMS ACT<br><a href="https://legislature.vermont.gov/statutes/section/32/007/00631">https://legislature.vermont.gov/statutes/section/32/007/00631</a>                                                                                                                             |
|                                                                                                                                  | 32 V.S.A. § 630 - Definitions<br><a href="http://legislature.vermont.gov/statutes/section/32/007/00630">http://legislature.vermont.gov/statutes/section/32/007/00630</a>                                                                                                                          |
|                                                                                                                                  | 32 V.S.A. § 631 – Prohibited Penalties<br><a href="http://legislature.vermont.gov/statutes/section/32/007/00631">http://legislature.vermont.gov/statutes/section/32/007/00631</a>                                                                                                                 |
|                                                                                                                                  | PROHIBITED PRACTICES; PENALTIES<br>33 V.S.A. § 141<br><b>Fraud</b><br><a href="http://legislature.vermont.gov/statutes/section/33/001/00141">http://legislature.vermont.gov/statutes/section/33/001/00141</a>                                                                                     |
|                                                                                                                                  | 33 V.S.A. § 142 - <b>Bringing needy person into the state</b><br><a href="http://legislature.vermont.gov/statutes/section/33/001/00142">http://legislature.vermont.gov/statutes/section/33/001/00142</a>                                                                                          |
|                                                                                                                                  | 33 V.S.A. § 143 - <b>General penalty</b><br><a href="http://legislature.vermont.gov/statutes/section/33/001/00143">http://legislature.vermont.gov/statutes/section/33/001/00143</a>                                                                                                               |
|                                                                                                                                  | 33 V.S.A. § 143a - <b>Civil remedies</b><br><a href="http://legislature.vermont.gov/statutes/section/33/001/00143a">http://legislature.vermont.gov/statutes/section/33/001/00143a</a>                                                                                                             |
|                                                                                                                                  | 13 V.S.A. § 3016 - <b>False claim</b><br><a href="http://legislature.vermont.gov/statutes/section/13/067/03016">http://legislature.vermont.gov/statutes/section/13/067/03016</a>                                                                                                                  |
|                                                                                                                                  | 26 V.S.A. § 1354 - <b>Unprofessional Conduct</b><br><a href="http://legislature.vermont.gov/statutes/section/26/023/01354">http://legislature.vermont.gov/statutes/section/26/023/01354</a>                                                                                                       |
|                                                                                                                                  | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                             |
|                                                                                                                                  | 32 V.S.A. § 632 - Civil Actions for False Claims<br><a href="http://legislature.vermont.gov/statutes/section/32/007/00632">http://legislature.vermont.gov/statutes/section/32/007/00632</a>                                                                                                       |
|                                                                                                                                  | 32 V.S.A. § 633 - Rights of the parties to qui tam actions<br><a href="http://legislature.vermont.gov/statutes/section/32/007/00633">http://legislature.vermont.gov/statutes/section/32/007/00633</a>                                                                                             |
|                                                                                                                                  | 32 V.S.A. § 634 - Alternate remedies available to determine civil penalty                                                                                                                                                                                                                         |

| State /Citation                                 | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                                                 | <a href="http://legislature.vermont.gov/statutes/section/32/007/00634">http://legislature.vermont.gov/statutes/section/32/007/00634</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                 | 32 V.S.A. § 635 - Payments to relators; limitations<br><a href="http://legislature.vermont.gov/statutes/section/32/007/00635">http://legislature.vermont.gov/statutes/section/32/007/00635</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                 | 32 V.S.A. § 636 - Certain actions barred<br><a href="http://legislature.vermont.gov/statutes/section/32/007/00636">http://legislature.vermont.gov/statutes/section/32/007/00636</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                 | Whistle-blower Protections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                                                 | Vermont False Claims Act<br>32 V.S.A. § 638 - Relief from retaliatory actions<br><a href="http://legislature.vermont.gov/statutes/section/32/007/00638">http://legislature.vermont.gov/statutes/section/32/007/00638</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                                                 | CHAPTER 5. EMPLOYMENT PRACTICES<br>SUBCHAPTER 10. WHISTLEBLOWER PROTECTION<br>21 V.S.A. § 507<br><b>Whistleblower protection; health care employees; prohibitions; hearing; notice</b><br><a href="http://legislature.vermont.gov/statutes/section/21/005/00507">http://legislature.vermont.gov/statutes/section/21/005/00507</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <i>Virginia/</i><br>Fraud Against Taxpayers Act | Criminal and Civil Penalties for False Claims and Statements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Va. Code Ann. § 8.01-216.1<br><i>et seq.</i>    | Other Helpful Information About Medicaid Fraud & Reporting Fraud<br><a href="https://www.dmas.virginia.gov/about-us/contact/fraud-and-abuse/">https://www.dmas.virginia.gov/about-us/contact/fraud-and-abuse/</a><br><a href="https://www.oag.state.va.us/programs-initiatives/medicaid-fraud">https://www.oag.state.va.us/programs-initiatives/medicaid-fraud</a><br><a href="https://www.oag.state.va.us/programs-initiatives/medicaid-fraud?view=article&amp;id=179">https://www.oag.state.va.us/programs-initiatives/medicaid-fraud?view=article&amp;id=179</a><br><a href="https://vamedicaid.dmas.virginia.gov/vamed/download-pdf-memo/1097">https://vamedicaid.dmas.virginia.gov/vamed/download-pdf-memo/1097</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Va. Code Ann. § 18.2-498.3                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Va. Code Ann. § 32.1-312 <i>et seq.</i>         | Va. Code Ann. § 8.01-216.1 - 216.19 - This article may be cited as the <b>Virginia Fraud Against Taxpayers Act</b> .<br><a href="http://law.lis.virginia.gov/vacodefull/title8.01/chapter3/article19.1/">http://law.lis.virginia.gov/vacodefull/title8.01/chapter3/article19.1/</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Va. Code Ann. § 32.1-321.3<br><i>et seq.</i>    | VA Code Ann. § 8.01-216.2<br>§ 8.01-216.2. Definitions<br>Currentness<br>As used in this article, unless the context requires otherwise:<br>“Attorney General” means the Attorney General of Virginia, the Chief Deputy, other deputies, counsels or assistant attorneys general employed by the Office of the Attorney General and designated by the Attorney General to act pursuant to this article.<br>“Claim” means any request or demand, whether under a contract or otherwise, for money or property, regardless of whether the Commonwealth has title to the money or property, that (i) is presented to an officer, employee, or agent of the Commonwealth or (ii) is made to a contractor, grantee, or other recipient (a) if the money or property is to be spent or used on the Commonwealth's behalf or to advance a governmental program or interest and (b) if the Commonwealth provides or has provided any portion of the money or property requested or demanded or will reimburse such contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded. For purposes of this article, “claim” does not include requests or demands for money or property that the Commonwealth has paid to an individual as compensation for employment with the Commonwealth or as income subsidy with no restriction on that individual's use of the money or property.<br>“Commonwealth” means the Commonwealth of Virginia, any agency of state government, and any political subdivision of the Commonwealth.<br>“Documentary material” means 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.<br>“Employee” includes an employee or officer of the Commonwealth. |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>“Employer” includes the Commonwealth.</p> <p>“Investigation” means any inquiry conducted by an investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of this article.</p> <p>“Material” means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.</p> <p>“Obligation” means an established duty, whether or not fixed, arising from (i) an express or implied contractual, grantor-grantee, or licensor-licensee relationship; (ii) a fee-based or similar relationship; (iii) a statute or regulation; or (iv) the retention of any overpayment.</p> <p>“Official use” means any use that is consistent with the law, regulations, and policies of the Commonwealth, including use in connection with (i) internal memoranda and reports of the Office of the Attorney General; (ii) communications between the Office of the Attorney General and a federal, state, or local government agency, or a contractor of a federal, state, or local government agency, undertaken in furtherance of an Office of the Attorney General investigation or prosecution of a case; (iii) interviews of any qui tam relator or other witness; (iv) oral examinations; (v) depositions; (vi) the preparation for and response to civil discovery requests; (vii) the introduction into the record of a case or proceeding; (viii) applications, motions, memoranda, and briefs submitted to a court or other tribunal; and (ix) communications with government investigators, auditors, consultants, experts, the counsel of other parties, arbitrators, and mediators, concerning an investigation, case, or proceeding.</p> <p>“Person” includes any natural person, corporation, firm, association, organization, partnership, limited liability company, business or trust.</p> <p>“Product of discovery” means (i) 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; (ii) any digest, analysis, selection, compilation, or derivation of any item listed in clause (i); and (iii) any index or other manner of access to any item listed in clause (i).</p> <p>Credits</p> <p>Acts 2002, c. 842, eff. Jan. 1, 2003; Acts 2011, c. 651; Acts 2011, c. 676.</p> <p>Va. Code Ann. § 8.01-216.3</p> <p><b>False claims; civil penalty</b></p> <p><a href="http://law.lis.virginia.gov/vacode/title8.01/chapter3/section8.01-216.3/">http://law.lis.virginia.gov/vacode/title8.01/chapter3/section8.01-216.3/</a></p> <p>A. Any person who:</p> <ol style="list-style-type: none"><li>1. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;</li><li>2. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;</li><li>3. Conspires to commit a violation of subdivision 1, 2, 4, 5, 6, 7, 8, or 9;</li><li>4. Has possession, custody, or control of property or money used, or to be used, by the Commonwealth and knowingly delivers, or causes to be delivered, less than all such money or property;</li><li>5. Has possession, custody, or control of an illegal gambling device, as defined in § 18.2-325, knowing such device is illegal, and knowingly conceals, avoids, or decreases an obligation to pay or transmit money to the Commonwealth that is derived from the operation of such device;</li><li>6. Manufactures for sale, sells, or distributes an illegal gaming device knowing that such device is or is intended to be operated in the Commonwealth in violation of Article 1 (§ 18.2-325 et seq.) or Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;</li><li>7. Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Commonwealth and, intending to defraud the Commonwealth, makes or delivers the receipt without completely knowing that the information on the receipt is true;</li><li>8. Knowingly buys or receives as a pledge of an obligation or debt, public property from an officer or employee of the Commonwealth who lawfully may not sell or pledge the property; or</li><li>9. 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 Commonwealth or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Commonwealth;</li></ol> <p>shall be liable to the Commonwealth for a civil penalty of not less than \$10,957 and not more than \$21,916, except that these lower and upper limits on liability shall automatically be adjusted to equal the amounts allowed under the Federal False Claims Act, 31 U.S.C. § 3729 et seq., as amended, as such penalties in the Federal False Claims Act are adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. § 2461 Note, P.L. 101-410), plus three times the amount of damages sustained by the Commonwealth.</p> <p>A person violating this section shall be liable to the Commonwealth for reasonable attorney fees and costs of a civil action brought to recover any such penalties or damages. All such fees and costs shall be paid to the Attorney General's Office by the defendant and shall not be included in any damages or civil penalties recovered in a civil action based on a violation of this section.</p> <p>B. If the court finds that (i) the person committing the violation of this section furnished officials of the Commonwealth responsible for investigating false claims violations with all information known to the person about the violation within 30 days after the date on which the defendant first obtained the information; (ii) such person fully cooperated with any Commonwealth investigation of such violation; (iii) at the time such person furnished the Commonwealth with the information about the violation, no criminal prosecution, civil action, or administrative</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>action had commenced with respect to such violation; and (iv) the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than two times the amount of damages that the Commonwealth sustains because of the act of that person. A person violating this section shall also be liable to the Commonwealth for the costs of a civil action brought to recover any such penalty or damages.</p> <p>C. For purposes of this section, the terms “knowing” and “knowingly” 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 require no proof of specific intent to defraud.</p> <p>D. Except as provided in subdivision A 5, this section shall not apply to claims, records, or statements relating to state or local taxes.</p> <p>Credits</p> <p>Acts 2002, c. 842, eff. Jan. 1, 2003; Acts 2004, c. 589; Acts 2007, c. 569; Acts 2011, c. 676. Amended by Acts 2018, c. 624; Acts 2020, c. 791; Acts 2022, c. 553.</p> <p>REGULATION OF MEDICAL ASSISTANCE</p> <p>Va. Code Ann. § 32.1-312</p> <p><b>Fraudulently obtaining excess or attempting to obtain excess benefits or payments; penalty</b></p> <p><a href="http://law.lis.virginia.gov/vacode/title32.1/chapter9/section32.1-312/">http://law.lis.virginia.gov/vacode/title32.1/chapter9/section32.1-312/</a></p> <p>A. No person, agency or institution, but not including an individual medical assistance recipient of health care, on behalf of himself or others, whether under a contract or otherwise, shall obtain or attempt to obtain benefits or payments where the Commonwealth directly or indirectly provides any portion of the benefits or payments pursuant to the Plan for Medical Assistance and any amendments thereto as provided for in <a href="#">§ 32.1-325</a>, hereafter referred to as "medical assistance" in a greater amount than that to which entitled by:</p> <ol style="list-style-type: none"><li>1. Knowingly and willfully making or causing to be made any false statement or false representation of material fact;</li><li>2. Knowingly and willfully concealing or causing to be concealed any material facts; or</li><li>3. Knowingly and willfully engaging in any fraudulent scheme or device, including, but not limited to, submitting a claim for services, drugs, supplies or equipment that were unfurnished or were of a lower quality, or a substitution or misrepresentation of items billed.</li></ol> <p>B. Any person, agency or institution knowingly and willfully violating any of the provisions of subsection A shall be (i) liable for repayment of any excess benefits or payments received, plus interest on the amount of the excess benefits or payments at the rate of 1.5 percent each month for the period from the date upon which payment was made to the date upon which repayment is made to the Commonwealth and (ii) in addition to any other penalties provided by law, subject to civil penalties. The state Attorney General may petition the circuit court in the jurisdiction of the alleged offense, to seek an order assessing civil penalties in an amount not to exceed three times the amount of such excess benefits or payments. Such civil penalties shall not apply to any acts or omissions occurring prior to the effective date of this law.</p> <p>C. A criminal action need not be brought against a person for that person to be civilly liable under this section.</p> <p>D. Civil penalties shall be deposited in the general fund of the state treasury upon their receipt.</p> <p>E. A civil action under this section shall be brought (i) within six years of the date on which the violation was committed, or (ii) within three years of the date when an official of the Commonwealth charged with the responsibility to act in the circumstances discovered or reasonably should have discovered the facts material to the cause of action. However, in no event shall the limitations period extend more than 10 years from the date on which the violation was committed.</p> <p><b>HISTORY:</b> 1981, c. 255; 1984, c. 781; <a href="#">2007, c. 569</a>; <a href="#">2010, c. 305</a>.</p> <p>REGULATION OF MEDICAL ASSISTANCE</p> <p>Va. Code Ann. § 32.1-314</p> <p><b>False statement or representation in applications for payment or for use in determining rights to payment; concealment of facts; penalty</b></p> <p><a href="http://law.lis.virginia.gov/vacode/title32.1/chapter9/section32.1-314/">http://law.lis.virginia.gov/vacode/title32.1/chapter9/section32.1-314/</a></p> <p>REGULATION OF MEDICAL ASSISTANCE</p> <p>Va. Code Ann. § 32.1-316</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p><b>False statement or representation as to conditions or operations of institution or facility; penalty</b><br/><a href="http://law.lis.virginia.gov/vacode/title32.1/chapter9/section32.1-316/">http://law.lis.virginia.gov/vacode/title32.1/chapter9/section32.1-316/</a></p> <p>VIRGINIA GOVERNMENTAL FRAUDS ACT<br/>Va. Code Ann. § 18.2-498.3</p> <p><b>Misrepresentations prohibited</b><br/><a href="http://law.lis.virginia.gov/vacode/title18.2/chapter12/section18.2-498.3/">http://law.lis.virginia.gov/vacode/title18.2/chapter12/section18.2-498.3/</a></p> <p>REGULATION OF RECIPIENT ELIGIBILITY<br/>Va. Code Ann. § 32.1-321.3</p> <p><b>Fraudulently obtaining benefits; liability for fraudulently issued benefits; civil action to recover; penalty</b><br/><a href="http://law.lis.virginia.gov/vacode/title32.1/chapter9/section32.1-321.3/">http://law.lis.virginia.gov/vacode/title32.1/chapter9/section32.1-321.3/</a></p> <p>Va. Code Ann. § 32.1-321.4</p> <p><b>False statement or representation in applications for eligibility or for use in determining rights to benefits; concealment of facts; criminal penalty</b><br/><a href="http://law.lis.virginia.gov/vacode/title32.1/chapter9/section32.1-321.4/">http://law.lis.virginia.gov/vacode/title32.1/chapter9/section32.1-321.4/</a></p> <p>Va. Code Ann. § 32.1-349</p> <p><b>Liability for excess payments</b><br/><a href="http://law.lis.virginia.gov/vacode/title32.1/chapter12/section32.1-349/">http://law.lis.virginia.gov/vacode/title32.1/chapter12/section32.1-349/</a></p> <p>Va. Code Ann. § 32.1-350</p> <p><b>Fraudulently obtaining benefits; criminal penalty</b><br/><a href="http://law.lis.virginia.gov/vacode/title32.1/chapter12/section32.1-350/">http://law.lis.virginia.gov/vacode/title32.1/chapter12/section32.1-350/</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                 | <p><b>Qui Tam Actions &amp; Remedies</b></p> <p>Va. Code Ann. § 8.01-216.5</p> <p><b>Civil actions filed by private persons; Commonwealth may intervene</b><br/><a href="http://law.lis.virginia.gov/vacode/title8.01/chapter3/section8.01-216.5/">http://law.lis.virginia.gov/vacode/title8.01/chapter3/section8.01-216.5/</a><br/><i>§ 8.01-216.5. Civil actions filed by private persons; Commonwealth may intervene</i></p> <hr/> <p><b>A.</b> A person may bring a civil action for a violation of <a href="#">§ 8.01-216.3</a> for the person and for the Commonwealth. The action shall be brought in the name of the Commonwealth. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.</p> <p><b>B.</b> A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Commonwealth. The complaint shall be filed in camera, shall remain under seal for at least 120 days, and shall not be served on the defendant until the court so orders. The Commonwealth may elect to intervene and proceed with the action within 120 days after it receives both the complaint and the material evidence and information.</p> <p><b>C.</b> The Commonwealth may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal. Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any motion for judgment filed under this section until twenty-one days after the complaint is unsealed and served upon the defendant.</p> <p><b>D.</b> Before the expiration of the 120-day period or any extensions obtained under subsection C, the Commonwealth shall proceed with the action, in which case the action shall be conducted by the Commonwealth, or notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to prosecute the action.</p> <p><b>E.</b> When a person brings an action under this section, no person other than the Commonwealth may intervene or bring a related action based on the facts underlying the pending action.</p> <p>History - <a href="#">2002, c. 842</a>; <a href="#">2007, c. 569</a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>Va. Code Ann. § 8.01-216.7<br/><b>Award to private plaintiff</b><br/><a href="http://law.lis.virginia.gov/vacode/title8.01/chapter3/section8.01-216.7/">http://law.lis.virginia.gov/vacode/title8.01/chapter3/section8.01-216.7/</a></p> <p>A. Except as hereinafter provided, if the Commonwealth proceeds with an action brought by a person under § 8.01-216.5, such person shall 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 person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Auditor of Public Accounts' 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 ten 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 this section shall be made from the proceeds of the award. Any such 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 such expenses, fees, and costs shall be awarded against the defendant.</p> <p>B. If the Commonwealth does not proceed with an action, 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 percent and not more than thirty percent of the proceeds of the award or settlement and shall be paid out of the proceeds. Such 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 such expenses, fees, and costs shall be awarded against the defendant.</p> <p>C. Whether or not the Commonwealth proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of § 8.01-216.3 upon which the action was brought, or if the person bringing the action is convicted of criminal conduct arising from his role in the violation of § 8.01-216.3, 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 Commonwealth to continue the action.</p> <p>D. If the Commonwealth 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.</p> <p>Credits<br/>Acts 2002, c. 842, eff. Jan. 1, 2003.</p> <p><b>Whistle-blower Protections</b></p> <p>Va. Code Ann. § 8.01-216.8<br/><b>Certain actions barred; relief from employment discrimination; waiver of sovereign immunity</b><br/><a href="http://law.lis.virginia.gov/vacode/title8.01/chapter3/section8.01-216.8/">http://law.lis.virginia.gov/vacode/title8.01/chapter3/section8.01-216.8/</a></p> <p>No court shall have jurisdiction over any action brought under this article by an inmate incarcerated within a state or local correctional facility as defined in <a href="#">§ 53.1-1</a>.</p> <p>No court shall have jurisdiction over an action brought under this article against any department, authority, board, bureau, commission, or agency of the Commonwealth, any political subdivision of the Commonwealth, 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 Commonwealth when the action was brought. For purposes of this section, "exempt official" means the Governor, Lieutenant Governor, Attorney General and the directors or members of any department, authority, board, bureau, commission or agency of the Commonwealth or any political subdivision of the Commonwealth.</p> <p>In no event may a person bring an action under this article that is based upon allegations or transactions that are the subject of a civil suit or an administrative proceeding in which the Commonwealth is already a party.</p> <p>The court shall dismiss an action or claim under <a href="#">§ 8.01-216.5</a> unless opposed by the Commonwealth if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed in a criminal, civil or administrative hearing in which the Commonwealth or its agent is a party, in a Virginia legislative, administrative, or Auditor of Public Accounts' 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. For purposes of this section, "original source" means an individual (i) who either prior to a public disclosure has voluntarily disclosed to the Commonwealth the information on which the allegations or transactions in a claim are based or (ii) 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 Commonwealth before filing an action under this article.</p> <p>Except as otherwise provided in this section, the Commonwealth shall not be liable for expenses a person incurs in bringing an action under this article.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>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 article or other efforts to stop one or more violations of this article. Relief shall include reinstatement with the same seniority status that 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. Any relief awarded to an employee under this section shall be reduced by any amount awarded to the employee through a state or local grievance process. An action under this section may be brought in a court of competent jurisdiction for the relief provided in this section, but may not be brought more than three years after the date the discrimination occurred. This paragraph shall constitute a waiver of sovereign immunity and creates a cause of action by an employee against the Commonwealth if the Commonwealth is the employer responsible for the adverse employment action that would entitle the employee to the relief set forth in this paragraph.</p> <p><b>HISTORY:</b> <a href="#">2002, c. 842</a>; <a href="#">2011, cc. 651, 676</a>; <a href="#">2012, c. 479</a>; <a href="#">2014, c. 403</a>.</p> <p>Va. Code Ann. § 32.1-125.4</p> <p><b>Retaliation or discrimination against complainants</b></p> <p><a href="http://law.lis.virginia.gov/vacode/title32.1/chapter5/section32.1-125.4/">http://law.lis.virginia.gov/vacode/title32.1/chapter5/section32.1-125.4/</a></p> <p>TITLE 2.2. ADMINISTRATION OF GOVERNMENT<br/>SUBTITLE I. ORGANIZATION OF STATE GOVERNMENT<br/>PART E. STATE OFFICERS AND EMPLOYEES<br/>CHAPTER 30.1. THE FRAUD AND ABUSE WHISTLE BLOWER PROTECTION ACT</p> <p><b><i>Va. Code Ann. § 2.2-3009 - Policy</i></b></p> <p>It shall be the policy of the Commonwealth that citizens of the Commonwealth and employees of governmental agencies be freely able to report instances of wrongdoing or abuse committed by governmental agencies or independent contractors of governmental agencies.</p> <p><b>HISTORY:</b> 2009, c. 340; 2014, c. 403; 2016, c. 292.</p> <p><b><i>Va. Code Ann. § 2.2-3010 - Definitions</i></b></p> <p>As used in this chapter:</p> <p><i>"Abuse"</i> means an employer's or employee's conduct or omissions that result in substantial misuse, destruction, waste, or loss of funds or resources belonging to or derived from federal, state, or local government sources.</p> <p><i>"Appropriate authority"</i> means a federal, state, or local agency or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or abuse; or a member, officer, agent, representative, or supervisory employee of the agency or organization. The term also includes the Office of the Attorney General, the Office of the State Inspector General, and the General Assembly and its committees having the power and duty to investigate criminal law enforcement, regulatory violations, professional conduct or ethics, or abuse.</p> <p><i>"Employee"</i> means any person who is regularly employed full time on either a salaried or wage basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of and whose compensation is payable, no more often than biweekly, in whole or in part, by a governmental agency.</p> <p><i>"Employer"</i> means a person supervising one or more employees, including the employee filing a good faith report, a superior of that supervisor, or an agent of the governmental agency.</p> <p><i>"Good faith report"</i> means a report of conduct defined in this chapter as wrongdoing or abuse that is made without malice and that the person making the report has reasonable cause to believe is true.</p> <p><i>"Governmental agency"</i> means (i) any agency, institution, board, bureau, commission, council, or instrumentality of state government in the executive branch listed in the appropriation act and any independent agency; (ii) any county, city, or town or local or regional governmental authority; and (iii) any local school division as defined in § 22.1-280.2:2.</p> <p><i>"Misconduct"</i> means conduct or behavior by an employee that is inconsistent with state, local, or agency standards for which specific corrective or disciplinary action is warranted.</p> <p><i>"Whistle blower"</i> means an employee who witnesses or has evidence of wrongdoing or abuse and who makes or demonstrates by clear and convincing evidence that he is about to make a good faith report of, or testifies or is about to testify to, the wrongdoing or abuse to one of the employee's superiors, an agent of the employer, or an appropriate authority. "Whistle blower" includes a citizen of the Commonwealth who</p> |

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|                 | <p>witnesses or has evidence of wrongdoing or abuse and who makes or demonstrates by clear and convincing evidence that he is about to make a good faith report of, or testifies or is about to testify to, the wrongdoing or abuse to an appropriate authority.</p> <p><i>"Wrongdoing"</i> means a violation, which is not of a merely technical or minimal nature, of a federal or state law or regulation, local ordinance, or a formally adopted code of conduct or ethics of a professional organization designed to protect the interests of the public or employee.</p> <p><b>HISTORY:</b> 2009, c. 340; 2011, cc. 798, 871; 2014, c. 403; 2015, c. 316; 2016, c. 292.</p> <p><b><i>Va. Code Ann. § 2.2-3010.1 - Discrimination and retaliatory actions against citizen whistle blowers prohibited; good faith required; other remedies</i></b></p> <p>A. No governmental agency may threaten or otherwise discriminate or retaliate against a citizen whistle blower because the whistle blower is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action.</p> <p>B. To be protected by the provisions of this chapter, a citizen of the Commonwealth who discloses information about suspected wrongdoing or abuse shall do so in good faith and upon a reasonable belief that the information is accurate. Disclosures that are reckless or that the citizen knew or should have known were false, confidential by law, or malicious shall not be deemed good faith reports and shall not be protected.</p> <p>C. Any citizen whistle blower disclosing information of wrongdoing or abuse under this chapter where the disclosure results in a recovery of at least \$ 5,000 may file a claim for reward under the Fraud and Abuse Whistle Blower Reward Fund established in § 2.2-3014.</p> <p>D. Except for the provisions of subsection F of § 2.2-3011, nothing in this chapter shall be construed to limit the remedies provided by the Virginia Fraud Against Taxpayers Act (§ 8.01-216.1 et seq.).</p> <p><b>HISTORY:</b> 2014, c. 403; 2016, c. 292.</p> <p><b><i>Va. Code Ann. § 2.2-3011 - Discrimination and retaliatory actions against whistle blowers prohibited; good faith required; remedies</i></b></p> <p>A. No employer may discharge, threaten, or otherwise discriminate or retaliate against a whistle blower whether acting on his own or through a person acting on his behalf or under his direction.</p> <p>B. No employer may discharge, threaten, or otherwise discriminate or retaliate against a whistle blower, in whole or in part, because the whistle blower is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action.</p> <p>C. To be protected by the provisions of this chapter, an employee who discloses information about suspected wrongdoing or abuse shall do so in good faith and upon a reasonable belief that the information is accurate. Disclosures that are reckless or the employee knew or should have known were false, confidential by law, or malicious shall not be deemed good faith reports and shall not be protected.</p> <p>D. In addition to the remedies provided in § 2.2-3012, any whistle blower may bring a civil action for violation of this section in the circuit court of the jurisdiction where the whistle blower is employed. In a proceeding commenced against any employer under this section, the court, if it finds that a violation was willfully and knowingly made, may impose upon such employer that is a party to the action, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$ 500 nor more than \$ 2,500, which amount shall be paid into the Fraud and Abuse Whistle Blower Reward Fund. The court may also order appropriate remedies, including (i) reinstatement to the same position or, if the position is filled, to an equivalent position; (ii) back pay; (iii) full reinstatement of fringe benefits and seniority rights; or (iv) any combination of these remedies. The whistle blower may be entitled to recover reasonable attorney fees and costs. No action brought under this subsection shall be brought more than three years after the date the unlawful discharge, discrimination, or retaliation occurs. Any whistle blower proceeding under this subsection shall not be required to exhaust existing internal procedures or other administrative remedies.</p> <p>E. Nothing in this chapter shall prohibit an employer from disciplining or discharging a whistle blower for his misconduct or any violation of criminal law.</p> <p>F. No court shall have jurisdiction over an action brought under § 8.01-216.5 based on information discovered by a present or former employee of the Commonwealth during the course of his employment unless that employee first, in good faith, has exhausted existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels and unless the Commonwealth failed to act on the information provided within a reasonable period of time.</p> <p><b>HISTORY:</b> 2009, c. 340; 2014, cc. 335, 403</p> <p><b><i>Va. Code Ann. § 2.2-3012 - Application of state or local grievance procedure; other remedies</i></b></p> <p>A. Any whistle blower covered by the state grievance procedure (§ 2.2-3000 et seq.) or a local grievance procedure established under § 15.2-1506 may initiate a grievance alleging retaliation and requesting relief through that procedure.</p> <p>B. Any whistle blower disclosing information of wrongdoing or abuse under this chapter where the disclosure results in a recovery of at least \$ 5,000 may file a claim for reward under the Fraud and Abuse Whistle Blower Reward Fund established in § 2.2-3014.</p> |

| State /Citation                                                                                                                                                                | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                                                                                                                                                                                | <p>C. Except for the provisions of subsection F of § 2.2-3011, nothing in this chapter shall be construed to limit the remedies provided by the Virginia Fraud Against Taxpayers Act (§ 8.01-216.1 et seq.).<br/><b>HISTORY:</b> 2009, c. 340; 2014, c. 403; 2016, cc. 292, 293.</p> <p><b><i>Va. Code Ann. § 2.2-3013 - Notice to employees of whistle blower protection</i></b><br/>An employer shall post notices and use other appropriate means to notify employees and keep them informed of the protection and obligations set forth in the provisions of this chapter.<br/><b>HISTORY:</b> 2009, c. 340.</p> <p><b><i>Va. Code Ann. § 2.2-3014 - Fraud and Abuse Whistle Blower Reward Fund</i></b><br/>A. From such funds as may be authorized by the General Assembly, there is hereby created in the state treasury a special nonreverting fund to be known as the Fraud and Abuse Whistle Blower Reward Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller and shall be administered by the State Inspector General. All moneys recovered by the State Inspector General as the result of whistle blower activity and alerts originating with the Office of the State Inspector General shall be deposited in the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Except as provided in subsection B, any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to (i) provide monetary rewards to persons who have disclosed information of wrongdoing or abuse under this chapter and the disclosure results in a recovery of at least \$ 5,000 or (ii) support the administration of the Fund, defray Fund advertising costs, or subsidize the operation of the Fraud, Waste and Abuse Hotline (previously known as the State Employee Fraud, Waste and Abuse Hotline).</p> <p>B. By the end of each calendar quarter and upon authorization of the State Inspector General, 85 percent of all sums recovered shall be remitted to the institutions or governmental agencies on whose behalf the recovery was secured by the State Inspector General unless otherwise directed by a court of law. Each such institution or governmental agency on whose behalf the recovery was secured by the State Inspector General shall receive an amount equal to 85 percent of the actual amount recovered by the State Inspector General on its behalf.</p> <p>C. The amount of the reward shall be up to 10 percent of the actual sums recovered by the Commonwealth as a result of the disclosure of the wrongdoing or abuse. Regardless of the sums recovered, at no time shall the amount of any reward, even if less than 10 percent, exceed the balance of the Fund. Reward disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the State Inspector General. In the event that multiple whistle blowers contemporaneously report the same qualifying incident or occurrence of wrongdoing or abuse, the State Inspector General in his sole discretion may split the reward of up to 10 percent among the multiple whistle blowers. The decision of the State Inspector General regarding the allocation of the rewards shall be final and binding on all parties and shall not be appealable.</p> <p>D. Five percent of all sums recovered shall be retained in the Fund to support the administration of the Fund, defray advertising costs, and subsidize the operation of the Fraud, Waste and Abuse Hotline. Expenditures for administrative costs for management of the Fund shall be managed as approved by the State Inspector General.</p> <p>E. The Office of the State Inspector General shall promulgate regulations for the proper administration of the Fund including eligibility requirements and procedures for filing a claim. The Office of the State Inspector General shall submit an annual report to the General Assembly summarizing the activities of the Fund.<br/><b>HISTORY:</b> 2009, c. 340; 2011, cc. 798, 871; 2013, cc. 572, 690; 2014, c. 403; 2016, c. 292.</p> |
| <p><u>Washington</u><br/>Rev. Code Wash. (ARCW) § 74.66.005 - Rev. Code Wash. (ARCW) § 74.66.130</p> <p>Rev. Code Wash. (ARCW) § 48.80.010</p> <p>§ 74.09.210. – 74.09.290</p> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><b>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</b><br/><a href="https://www.dshs.wa.gov/faq/how-do-i-report-medicaid-provider-fraud-washington-state">https://www.dshs.wa.gov/faq/how-do-i-report-medicaid-provider-fraud-washington-state</a><br/><a href="https://www.atg.wa.gov/medicaid-fraud">https://www.atg.wa.gov/medicaid-fraud</a><br/><a href="https://www.hca.wa.gov/about-hca/medicaid-fraud-prevention">https://www.hca.wa.gov/about-hca/medicaid-fraud-prevention</a></p> <p><b>Medicaid Fraud False Claims Act</b><br/>Rev. Code Wash. (ARCW) § 74.66.005 - Rev. Code Wash. (ARCW) § 74.66.130<br/><a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=74.66">http://apps.leg.wa.gov/RCW/default.aspx?cite=74.66</a></p> <p>Health Care False Claims Act<br/><a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=48.80">http://apps.leg.wa.gov/RCW/default.aspx?cite=48.80</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

| State /Citation                       | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| Rev. Code Wash. (ARCW) § 74.09.230    | Rev. Code Wash. (ARCW) § 48.80.010<br>This chapter may be known and cited as " <b>the health care false claim act.</b><br><a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=48.80.010">http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=48.80.010</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Rev. Code Wash. (ARCW) § 49.60.210    | Rev. Code Wash. (ARCW) § 48.80.020<br><b>Definitions</b><br><a href="http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=48.80.020">http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=48.80.020</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Rev. Code Wash. (ARCW) § 42.40.010    | Rev. Code Wash. (ARCW) § 48.80.030<br><b>Making false claims, concealing information -- Penalty -- Exclusions</b><br><a href="http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=48.80.030">http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=48.80.030</a><br><br>TITLE 74. PUBLIC ASSISTANCE<br>CHAPTER 74.09. MEDICAL CARE<br><a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=74.09">http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=74.09</a><br>Rev. Code Wash. (ARCW) § 74.09.210<br><b>Fraudulent practices – Penalties</b><br><a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=74.09.210">http://apps.leg.wa.gov/RCW/default.aspx?cite=74.09.210</a><br><br>Rev. Code Wash. (ARCW) § 74.09.230<br><b>False statements, fraud -- Penalties</b><br><a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=74.09.230">http://apps.leg.wa.gov/RCW/default.aspx?cite=74.09.230</a><br><br>Rev. Code Wash. (ARCW) § 51.48.250<br><b>Liability of persons willfully obtaining erroneous payments -- Civil penalties</b><br><a href="http://app.leg.wa.gov/RCW/default.aspx?cite=51.48.250">http:// app.leg.wa.gov/ RCW/ default.aspx?cite=51.48.250</a><br>Rev. Code Wash. (ARCW) § 51.48.270<br><b>Criminal liability of persons making false statements or concealing information</b><br><a href="http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=51.48.270">http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=51.48.270</a><br><br>Washington Medicaid Fraud Provisions<br><a href="http:// apps.leg.wa.gov/ documents/ billdocs/ 2011-12/ Pdf/ Bills/ Senate%20Passed%20Legislature/ 5978-S.PL.pdf">http:// apps.leg.wa.gov/ documents/ billdocs/ 2011-12/ Pdf/ Bills/ Senate%20Passed%20Legislature/ 5978-S.PL.pdf</a><br><a href="http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=74.09">http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=74.09</a> |
| <b>Qui Tam Actions &amp; Remedies</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                       | Rev. Code Wash. (ARCW) § 74.66.050 - Qui tam action -- Relator rights and duties<br><a href="http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=74.66.050">http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=74.66.050</a><br><br>Rev. Code Wash. (ARCW) § 74.66.060 - Qui tam action -- Attorney general authority<br><a href="http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=74.66.060">http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=74.66.060</a><br><br>Rev. Code Wash. (ARCW) § 74.66.070 - Qui tam action -- Award -- Proceeds of action or settlement of claim<br><a href="http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=74.66.070">http:// apps.leg.wa.gov/ RCW/ default.aspx?cite=74.66.070</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| State /Citation      | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                      | <p>Rev. Code Wash. (ARCW) § 74.66.080 - Qui tam action -- Restrictions -- Dismissal<br/><a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=74.66.080">http://apps.leg.wa.gov/RCW/default.aspx?cite=74.66.080</a></p> <p><b>Whistle-blower Protections</b></p> <p>Rev. Code Wash. (ARCW) § 74.66.090 - Whistleblower relief<br/><a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=74.66.090">http://apps.leg.wa.gov/RCW/default.aspx?cite=74.66.090</a></p> <p><b>STATE EMPLOYEE WHISTLEBLOWER PROTECTION</b><br/>Rev. Code Wash. (ARCW) § 42.40.010<br/><a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=42.40.010">http://apps.leg.wa.gov/RCW/default.aspx?cite=42.40.010</a></p> <p>Rev. Code Wash. (ARCW) § 51.48.025<br/><b>Retaliation by employer prohibited -- Investigation -- Remedies</b><br/><a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=51.48.025">http://apps.leg.wa.gov/RCW/default.aspx?cite=51.48.025</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <u>West Virginia</u> | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud<br/><a href="https://www.wvdhhr.org/oig/mfcu.html">https://www.wvdhhr.org/oig/mfcu.html</a><br/><a href="http://www.wvdhhr.org/oig/pdf/mfcu/mfcu%20brochure%202014%2003%2023.pdf">http://www.wvdhhr.org/oig/pdf/mfcu/mfcu%20brochure%202014%2003%2023.pdf</a></p> <p>W. Va. Code § 9-7-4</p> <p>W. Va. Code § 33-41-5</p> <p>W. Va. Code § 33-41-11</p> <p>W. Va. Code § 6C-1-3</p> <p>Chapter 9. Human Services.<br/>Article 7. Fraud and Abuse in the Medicaid Program.<br/>W. Va. Code § 9-7-1 - 9<br/><a href="http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=09&amp;art=7">http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=09&amp;art=7</a><br/>W. Va. Code § 9-7-4<br/><b>Applications for medical assistance; false statements or representations; criminal penalties.</b></p> <p><b>(a)</b> A person shall not knowingly make or cause to be made a false statement or false representation of any material fact in an application for medical assistance under the medical programs of the Department of Health and Human Resources.</p> <p><b>(b)</b> A person shall not knowingly make or cause to be made a false statement or false representation of any material fact necessary to determine the rights of any other person to medical assistance under the medical programs of the Department of Health and Human Resources.</p> <p><b>(c)</b> A person shall not knowingly and intentionally conceal or fail to disclose any fact with the intent to obtain medical assistance under the medical programs of the Department of Health and Human Resources to which the person or any other person is not entitled.</p> <p><b>(d)</b> Any person found to be in violation of subsection (a), (b) or (c) of this section is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility not less than one nor more than ten years, or shall be fined not to exceed \$10,000 or both fined and imprisoned.</p> <p><b>HISTORY:</b> 1981, c. 216; <a href="#">2011, c. 112</a>.</p> <p>W. Va. Code, § 9-7-5<br/>§ 9-7-5. Bribery; false claims; conspiracy; criminal penalties; failure to maintain records</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p><a href="#"><u>Currentness</u></a></p> <p>(a) A person shall not solicit, offer, pay, or receive any unlawful remuneration, including any kickback, rebate or bribe, directly or indirectly, with the intent of causing an expenditure of moneys from the medical services fund established pursuant to <a href="#"><u>§ 9-4-2 of this code</u></a>, which is not authorized by applicable laws or rules and regulations.</p> <p>(b) A person shall not make or present or cause to be made or presented to the Department of Health and Human Resources a claim under the medical programs of the Department of Health and Human Resources knowing the claim to be false, fraudulent, or fictitious.</p> <p>(c) A person shall not enter into an agreement, combination or conspiracy to obtain or aid another to obtain the payment or allowance of a false, fraudulent, or fictitious claim under the medical programs of the Department of Health and Human Resources.</p> <p>(d) Any person found to be in violation of § 9-7-5 (a), § 9-7-5(b) or § 9-7-5(c) of this code is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility not less than one nor more than 10 years or shall be fined not to exceed \$10,000, or both fined and imprisoned.</p> <p>(e) Any provider who, having submitted a claim for or received a benefit, payment, or allowance under the medical programs of the Department of Health and Human Resources, knowingly fails to maintain such records as are necessary to disclose fully the nature of a good or service for which a claim was submitted or benefit, payment, or allowance was received, or such records as are necessary to disclose fully all income and expenditures upon which rate of payment were based, for a period of at least five years following the date on which payment was received, shall be guilty of a misdemeanor and, upon conviction, may be imprisoned in a state correctional facility not to exceed one year or may be fined up to \$1,000, or both fined and imprisoned. Any person who knowingly destroys such records within five years from the date the benefit, payment, or allowance was received, shall be guilty of a felony, and may be imprisoned in a state correctional facility not less than one nor more than 10 years or may be fined not to exceed \$10,000, or both fined and imprisoned.</p> <p>Credits</p> <p><b>Acts 1981, c. 216; <a href="#"><u>Acts 2011, c. 119, eff. June 10, 2011</u></a>; <a href="#"><u>Acts 2018, c. 119, eff. June 8, 2018</u></a>.</b></p> <p>W. Va. Code, § 9-7-6</p> <p>§ 9-7-6. Civil remedies; statute of limitations</p> <p>Currentness</p> <p>(a) Any person, firm, corporation, or other entity which makes or attempts to make, or causes to be made, a claim for benefits, payments, or allowances under the medical programs of the Department of Health and Human Resources, when the person, firm, corporation, or entity knows, or reasonably should have known, such claim to be false, fictitious, or fraudulent, or fails to maintain such records as are necessary shall be liable to the Department of Health and Human Resources in an amount equal to three times the amount of such benefits, payments, or allowances to which he or she or it is not entitled, and shall be liable for the payment of reasonable attorney fees and all other fees and costs of litigation.</p> <p>(b) No criminal action or indictment need be brought against any person, firm, corporation, or other entity as a condition for establishing civil liability hereunder.</p> <p>(c) A civil action under this section may be prosecuted and maintained on behalf of the Department of Health and Human Resources by the Attorney General, the Attorney General's assistants, or by any attorney in contract with or employed with the Office of the Attorney General to provide such representation. If the Attorney General declines to do so, the civil action shall be maintained either by a prosecuting attorney and the prosecuting attorney's assistants or by any attorney in contract with or employed by the Department of Health and Human Resources to provide such representation.</p> <p>(d) Any civil action brought under this section shall be brought within five years from the time the false, fraudulent, or fictitious claim was made. Claims will be judged based on the Medicaid or program rules in existence at the time of the claim submission.</p> <p>Credits</p> <p>Acts 1981, c. 216; Acts 2011, c. 119, eff. June 10, 2011; Acts 2018, c. 119, eff. June 8, 2018; Acts 2019, c. 138, eff. Oct. 1, 2019.</p> <p>Insurance Fraud Prevention Act.</p> <p>W. Va. Code, § 33-41-5</p> <p><b>§ 33-41-5. Mandatory reporting of insurance fraud or criminal offenses otherwise related to the business of insurance</b></p> <p><a href="#"><u>Currentness</u></a></p> <p>(a) A person engaged in the business of insurance having knowledge or a reasonable belief that a fraudulent insurance act or another crime related to the business of insurance is being, will be, or has been committed shall provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.</p> <p>(b) Any other person having knowledge or a reasonable belief that a fraudulent insurance act or another crime related to the business of insurance is being, will be, or has been committed may provide to the commissioner the information requested by, and in a manner prescribed by, the commissioner.</p> <p>(c) The commissioner may prescribe a reporting form to facilitate reporting of possible fraudulent insurance acts or other offenses related to the business of insurance for use by persons other than those persons referred to in subsection (a) of this section.</p> <p>(d) Notwithstanding any other provision of this code, a person engaged in the business of insurance shall furnish and disclose any information, including documents, materials, or other information in its possession concerning a fraudulent insurance act or a suspected fraudulent insurance act to the commissioner. Disclosures provided pursuant to this section are subject to the confidentiality provisions set forth in <a href="#"><u>§ 33-41-7 of this code</u></a>.</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p><b>Credits</b><br/><a href="#">Acts 2004, c. 138</a>, eff. 90 days after March 13, 2004; <a href="#">Acts 2020, c. 197, eff. June 5, 2020</a>.</p> <p>W. Va. Code, § 33-41-11</p> <p><b>§ 33-41-11. Fraudulent insurance acts; interference and participation of convicted felons prohibited</b></p> <p><a href="#">Currentness</a></p> <p>(a) A person shall not commit a fraudulent insurance act as defined in <a href="#">§ 33-41-2 of this code</a>.</p> <p>(b) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this article or investigations of suspected or actual violations of this article.</p> <p>(c) A person convicted of a felony involving dishonesty or breach of trust, or a felony violation law reasonably related to the business of insurance, shall not participate in the business of insurance.</p> <p>(d) A person in the business of insurance shall not knowingly or intentionally permit a person convicted of a felony involving dishonesty or breach of trust, or of a felony reasonably related to the business of insurance, to participate in the business of insurance.</p> <p><b>Credits</b><br/><a href="#">Acts 2004, c. 138</a>, eff. 90 days after March 13, 2004; <a href="#">Acts 2005, 1st Ex. Sess., c. 4, eff. Jan. 29, 2005</a>; <a href="#">Acts 2007, c. 136, eff. June 8, 2007</a>; <a href="#">Acts 2020, c. 197, eff. June 5, 2020</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                 | <b>Qui Tam Actions &amp; Remedies</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                 | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                 | <b>Whistle-blower Protections</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                 | <p>*Public Employees<br/>Whistle-Blower Law.<br/>W. Va. Code § 6C-1-2 – <b>Definitions:</b></p> <p>The following words and phrases when used in this article have the meanings given to them in this section unless the context clearly indicates otherwise:</p> <p>(a) "Appropriate authority" means a federal, state, county or municipal 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 the Attorney General, the office of the State Auditor, the Commission on Special Investigations, the Legislature and committees of the Legislature having the power and duty to investigate criminal law enforcement, regulatory violations, professional conduct or ethics, or waste.</p> <p>(b) "Employee" means a person who performs a full or part-time service for wages, salary, or other remuneration under a contract of hire, written or oral, express or implied, for a public body.</p> <p>(c) "Employer" means a person supervising one or more employees, including the employee in question, a superior of that supervisor, or an agent of a public body.</p> <p>(d) "Good faith report" means a report of conduct defined in this article 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.</p> <p>(e) "Public body" means any of the following:</p> <p>(1) A department, division, officer, agency, bureau, board, commission, court in its nonjudicial functions only, council, institution, spending unit, authority or other instrumentality of the State of West Virginia;</p> <p>(2) A commission, council, department, agency, board, court, in its nonjudicial functions only, official, special district, corporation or other instrumentality of a county or a municipality or a regional or joint governing body of one or more counties or municipalities; or</p> <p>(3) Any other body which is created by state or political subdivision authority or which is funded by thirty-five percent or more by or through state or political subdivision authority, or a member or employee of that body.</p> |

| State /Citation                                             | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                                                             | <p><b>(f)</b> "Waste" means an employer or employee's conduct or omissions which result in substantial abuse, misuse, destruction or loss of funds or resources belonging to or derived from federal, state or political subdivision sources.</p> <p><b>(g)</b> "Whistle-blower" means a person who witnesses or has evidence of wrongdoing or waste while employed with a public body and who makes a good faith report of, or testifies to, the wrongdoing or waste, verbally or in writing, to one of the employee's superiors, to an agent of the employer or to an appropriate authority.</p> <p><b>(h)</b> "Wrongdoing" means 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.</p> <p><b>HISTORY:</b> 1988, c. 104.</p> <p>Whistle-Blower Law.<br/>W. Va. Code, § 6C-1-3</p> <p><b>§ 6C-1-3. Discriminatory and retaliatory actions against whistle-blowers prohibited; promotion, increased compensation protected</b></p> <p><u><a href="#">Currentness</a></u></p> <p>(a) No employer may discharge, threaten, or otherwise discriminate or retaliate against an employee by changing the employee's compensation, terms, conditions, location, or privileges of employment because the employee, acting on his or her own volition, or a person acting on behalf of or under the direction 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.</p> <p>(b) No employer may discharge, threaten, or otherwise discriminate or retaliate against an employee by changing the employee's compensation, terms, conditions, location, or privileges of employment because the employee is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry held by an appropriate authority or in a court action.</p> <p>(c) No employer may deny a whistle-blower covered by the civil service system, because of his or her status or actions as a whistle-blower, a promotion or other increase in compensation that the whistle-blower otherwise would have received.</p> <p><b>Credits</b><br/>Acts 1988, c. 104; <u><a href="#">Acts 2020, c. 256, eff. May 18, 2020.</a></u></p> <p><b>W. Va. Code, § 6C-1-4</b><br/>§ 6C-1-4. Civil action by whistle-blower for violation; limitation on actions; burden of proof; defense; use of evidence in civil service proceeding; grievance action available; other rights and actions not limited</p> <p><u><a href="#">Currentness</a></u></p> <p>(a) A person who alleges that he or she is a victim of a violation of this article may bring a civil action in a court of competent jurisdiction for appropriate injunctive relief or damages, or both, within two years after the occurrence of the alleged violation.</p> <p>(b) An employee alleging a violation of this article must show by a preponderance of the evidence that, prior to the alleged reprisal, the employee, or a person acting on behalf of or under the direction 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.</p> <p>(c) It shall be a defense to an action under this section if the defendant proves by a preponderance of the evidence that the action complained of occurred for separate and legitimate reasons, which are not merely pretexts.</p> <p>(d) An employee covered by the civil service system who contests a civil service action, believing it to be motivated by the employee having made a disclosure of information, may submit as admissible evidence any or all material relating to the action as whistle-blower and to the resulting alleged reprisal.</p> <p>(e) Any employee covered by the civil service system who has suffered a retaliatory action as a result of being a whistle-blower may pursue a grievance under the West Virginia Public Employees Grievance Procedure.</p> <p>(f) Nothing in this article shall impair or limit any other right or legal action of an employee covered by the civil service system.</p> <p><b>Credits</b><br/>Acts 1988, c. 104; <u><a href="#">Acts 2020, c. 256, eff. May 18, 2020.</a></u></p> |
| <u><a href="#">Wisconsin</a></u><br><br>Wis. Stat. § 49.485 | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p>Employee Education About False Claims @ <u><a href="https://www.dhs.wisconsin.gov/mandatoryreports/mastateplan/4-42a.pdf">https://www.dhs.wisconsin.gov/mandatoryreports/mastateplan/4-42a.pdf</a></u></p> <p>PUBLIC ASSISTANCE AND CHILDREN AND FAMILY SERVICES MEDICAL ASSISTANCE</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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| Wis. Stat. § 49.49   | Wis. 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| Wis. Stat. § 146.997 | <p><b>False claims.</b></p> <p>Whoever knowingly presents or causes to be presented to any officer, employee, or agent of this state a false claim for medical assistance shall forfeit not less than \$5,000 nor more than \$10,000, plus 3 times the amount of the damages that were sustained by the state or would have been sustained by the state, whichever is greater, as a result of the false claim. The attorney general may bring an action on behalf of the state to recover any forfeiture incurred under this section.</p> <p>History - <a href="#">2007 a. 20.</a></p> <p>Wis. Stat. § 49.49</p> <p><b>Medical assistance offenses.</b></p> <p style="text-align: center;"><b>W.S.A. 49.49</b></p> <p style="text-align: center;"><b>49.49. Medical assistance offenses</b></p> <p style="text-align: center;"><u><a href="#">Currentness</a></u></p> <p><b>(1d) Damages.</b> If any person is convicted under <a href="#">s. 946.91(2)</a>, the state shall have a cause of action for relief against such person in an amount 3 times the amount of actual damages sustained as a result of any excess payments made in connection with the offense for which the conviction was obtained. Proof by the state of a conviction under <a href="#">s. 946.91(2)</a> in a civil action shall be conclusive regarding the state's right to damages and the only issue in controversy shall be the amount, if any, of the actual damages sustained. Actual damages shall consist of the total amount of excess payments, any part of which is paid by state funds. In any such civil action the state may elect to file a motion in expedition of the action. Upon receipt of the motion, the presiding judge shall expedite the action.</p> <p><b>(3p) Prohibited provider charges.</b> No provider may knowingly violate <a href="#">s. 609.91(2)</a>.</p> <p><b>(4m) Prohibited conduct; forfeitures.</b> (a) No person, in connection with medical assistance, may:</p> <ol style="list-style-type: none"><li>1. Knowingly make or cause to be made any false statement or representation of a material fact in any application for a benefit or payment.</li><li>2. Knowingly make or cause to be made any false statement or representation of a material fact for use in determining rights to a benefit or payment.</li><li>3. Knowingly conceal or fail to disclose any event of which the person has knowledge that affects his or her initial or continued right to a benefit or payment or affects the initial or continued right to a benefit or payment of any other person in whose behalf he or she has applied for or is receiving a benefit or payment.</li></ol> <p>(b) A person who violates this subsection may be required to forfeit not less than \$100 nor more than \$15,000 for each statement, representation, concealment or failure.</p> <p><b>(5) County collection.</b> Any county may retain 15 percent of state Medical Assistance funds that are recovered due to the efforts of a county employee or officer or, if the county initiates action by the department of justice, due to the efforts of the department of justice under <a href="#">s. 49.846</a>. This subsection applies only to recovery of medical assistance that was provided as a result of fraudulent activity by a recipient or by a provider.</p> <p><b>(6) Recovery.</b> In addition to other remedies available under this section, the court may award the department of justice the reasonable and necessary costs of investigation, an amount reasonably necessary to remedy the harmful effects of the violation and the reasonable and necessary expenses of prosecution, including attorney fees, from any person who violates this section. The department of justice shall deposit in the state treasury for deposit in the general fund all moneys that the court awards to the department or the state under this subsection. The costs of investigation and the expenses of prosecution, including attorney fees, shall be credited to the appropriation account under s. 20.455(1)(gh).</p> <p><b>(7) Operation of nursing home or intermediate care facility by commission not prohibited.</b> (a) In this subsection:</p> <ol style="list-style-type: none"><li>1. “Commission” means an entity that is created by contract between 2 or more political subdivisions under <a href="#">s. 66.0301</a> to operate a nursing home or intermediate care facility and to which all of the following apply:<ol style="list-style-type: none"><li>a. The entity is the named licensee for the nursing home or intermediate care facility.</li><li>b. The entity is the certified provider under <a href="#">s. 49.45(2)(a)11.</a> for the nursing home or intermediate care facility and is the recipient of medical assistance reimbursement for services provided by the nursing home or intermediate care facility.</li><li>c. The entity owns or leases the building in which the nursing home or intermediate care facility is located.</li><li>d. The entity provides or contracts for provision of nursing home or intermediate care facility services.</li><li>e. The entity controls admissions and discharges from the nursing home or intermediate care facility.</li><li>f. The entity allocates the costs of operating the nursing home or intermediate care facility, and of providing services to residents of the nursing home or intermediate care facility, among the political subdivisions that are parties to the contract and assesses each political subdivision that is a party to the contract the portion of the costs allocated to that political subdivision.</li></ol></li><li>2. “Member” means a political subdivision that is a party to a contract to create a commission.</li><li>3. “Political subdivision” means a county, city, village, or town.</li></ol> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>(b) A commission's imposition of an assessment on a member for the costs incurred by the commission to operate the nursing home or intermediate care facility and to provide services to residents of the nursing home or intermediate care facility is a charge internal to the commission and does not constitute billing a 3rd party for services provided on behalf of an individual.</p> <p>(c) A member's payment of an assessment described under par. (b) is a transfer of funds internal to the commission and does not constitute a purchase of services on behalf of an individual, regardless of whether the payment is made from the member's general fund, made pursuant to a purchase of services agreement between a member's human services department or other department and the commission, or by a combination of these payment methods.</p> <p>(d) A commission's imposition of an assessment described under par. (b), a member's payment of the assessment as described under par. (c), and acceptance of the payment by the commission do not constitute conduct prohibited under <a href="#">s. 946.91(6)</a> or prohibited under <a href="#">s. DHS 106.04(3), Wis. Adm. Code</a>, in effect on May 26, 2010. It is the intent of the legislature to create a mechanism whereby 2 or more political subdivisions may share in the operation, use, and funding of a nursing home or intermediate care facility without violating <a href="#">42 USC 1320a-7b (d)</a> or <a href="#">42 USC 1396a(a)(25)(C)</a>.</p> <p>DEPARTMENT OF HEALTH AND FAMILY SERVICES<br/>CHAPTER HFS 106. PROVIDER RIGHTS AND RESPONSIBILITIES<br/>Wis. Adm. Code DHS 106.04<br/><b>Payment of claims for reimbursement.</b></p> <p>Wis. Adm. Code DHS 106.04 - Payment of claims for reimbursement.</p> <p>(1) TIMELINESS. (a) Timeliness of payment. The department shall reimburse a provider for a properly provided covered service according to the provider payment schedule entitled "terms of provider reimbursement," found in the appropriate MA provider handbook distributed by the department. The department shall issue payment on claims for covered services, properly completed and submitted by the provider, in a timely manner. Payment shall be issued on at least 95% of these claims within 30 days of claim receipt, on at least 99% of these claims within 90 days of claim receipt, and on 100% of these claims within 180 days of receipt. The department may not consider the amount of the claim in processing claims under this subsection.</p> <p>(b) Exceptions. The department may exceed claims payment limits under par. (a) for any of the following reasons:</p> <ol style="list-style-type: none"><li>1. If a claim for payment under medicare has been filed in a timely manner, the department may pay a MA claim relating to the same services within 6 months after the department or the provider receives notice of the disposition of the medicare claims;</li><li>2. The department may make payments at any time in accordance with a court order, or to carry out hearing decisions or department corrective actions taken to resolve a dispute; or</li><li>3. The department may issue payments in accordance with waiver provisions if it has obtained a waiver from the federal health care financing administration under 42 CFR 447.45 (e).</li></ol> <p>(1m) PAYMENT MECHANISM. (a) Definitions. In this subsection:</p> <ol style="list-style-type: none"><li>1. "Automated claims processing system" means the computerized system operated by the department's fiscal agent for paying the claims of providers.</li><li>2. "Manual partial payment" means a method of paying claims other than through the automated claims processing system.</li></ol> <p>(b) Automated claims processing. Except as provided in par. (c), payment of provider claims for reimbursement for services provided to recipients shall be made through the department's automated claims processing system.</p> <p>(c) Manual partial payment. The department may pay up to 75% of the reimbursable amount of a provider's claim in advance of payments made through the automated claims processing system if all the following conditions exist:</p> <ol style="list-style-type: none"><li>1. The provider requests a manual partial payment and is informed that the payment will be automatically recouped when the provider's claims are later processed through the automated claims processing system;</li></ol> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>2. A provider's claims for services provided have been pending in the automated claims processing system for more than 30 days, or the provider provides services to MA recipients representing more than 50% of the provider's income and payment for these services has been significantly delayed beyond the claims processing time historically experienced by the provider;</p> <p>3. The delay in payment under subd. 2. is due to no fault of the provider;</p> <p>4. Further delay in payment will have a financial impact on the provider which is likely to adversely affect or disrupt the level of care otherwise provided to recipients; and</p> <p>5. The provider has submitted documentation of covered services, including the provider name and MA billing number, the recipient's name and MA number, the date or dates of services provided, type and quantity of services provided as appropriate and any other information pertinent to payment for covered services.</p> <p>(d) Recoupment of manual partial payments. Manual partial payments shall be automatically recouped when the provider's claims are processed through the automated claims system.</p> <p>(e) Cash advances prohibited. In no case may the department or its fiscal agent make advance payment for services not yet provided. No payment may be made unless covered services have been provided and a claim or document under par. (c) 5. for these services has been submitted to the department.</p> <p>(2) COST SHARING. (a) General policy. Pursuant to <a href="#">s. 49.45 (18), Stats.</a>, the department shall establish copayment rates and deductible amounts for medical services covered under MA. Recipients shall provide the copayment amount or coinsurance to the provider or pay for medical services up to the deductible amount, as appropriate, except that the services and recipients listed in <a href="#">s. DHS 104.01 (12) (a)</a> are exempt from cost-sharing requirements. Providers are not entitled to reimbursement from MA for the copayment, coinsurance or deductible amounts for which a recipient is liable.</p> <p>(b) Liability for refunding erroneous copayment. In the event that medical services are covered by a third party and the recipient makes a copayment to the provider, the department is not responsible for refunding the copayment amount to the recipient.</p> <p>(3) NON-LIABILITY OF RECIPIENTS. A provider shall accept payments made by the department in accordance with sub. (1) as payment in full for services provided a recipient. A provider may not attempt to impose a charge for an individual procedure or for overhead which is included in the reimbursement for services provided nor may the provider attempt to impose an unauthorized charge or receive payment from a recipient, relative or other person for services provided, or impose direct charges upon a recipient in lieu of obtaining payment under the program, except under any of the following conditions:</p> <p>(a) A service desired, needed or requested by a recipient is not covered under the program or a prior authorization request is denied and the recipient is advised of this fact before receiving the service;</p> <p>(b) An applicant is determined to be eligible retroactively under <a href="#">s. 49.46 (1) (b), Stats.</a>, and a provider has billed the applicant directly for services rendered during the retroactive period, in which case the provider shall, upon notification of the recipient's retroactive eligibility, submit claims under this section for covered services provided during the retroactive period. Upon receipt of payment from the program for the services, the provider shall reimburse in full the recipient or other person who has made prior payment to the provider. A provider shall not be required to reimburse the recipient or other person in excess of the amount reimbursed by the program; or</p> <p>(c) A recipient in a nursing home chooses a private room in the nursing home and the provisions of <a href="#">s. DHS 107.09 (4) (k)</a> are met.</p> <p>(4) RELEASE OF BILLING INFORMATION BY PROVIDERS. (a) Restrictions. A provider may not release information to a recipient or to a recipient's attorney relating to charges which have been billed or which will be billed to MA for the cost of care of a recipient without notifying the department, unless any real or potential third-party payer liability has been assigned to the provider.</p> <p>(b) Provider liability. If a provider releases information relating to the cost of care of a recipient or beneficiary contrary to par. (a), and the recipient or beneficiary receives payment from a liable third-party payer, the provider shall repay to the department any MA benefit payment it has received for the charges in question. The provider may then assert a claim against the recipient or beneficiary for the amount of the MA benefit repaid to the department.</p> <p><b>Note:</b> See the Wisconsin Medical Assistance Provider Handbook for specific information on procedures to be followed in the release of billing information.</p> |

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|                 | <p>(5) RETURN OF OVERPAYMENT. (a) Except as provided in par. (b), if a provider receives a payment under the MA program to which the provider is not entitled or in an amount greater than that to which the provider is entitled, the provider shall return to the department the amount of the overpayment, including but not limited to erroneous, excess, duplicative and improper payments, regardless of cause, within 30 days after the date of the overpayment in the case of a duplicative payment from MA, medicare or other health care payer and within 30 days after the date of discovery in the case of all other overpayments.</p> <p>(b) In lieu of returning the overpayment, a provider may notify the department in writing within 30 days after the date of the overpayment or its discovery, as applicable, of the nature, source and amount of the overpayment and request that the overpayment be deducted from future amounts owed the provider by the MA program.</p> <p>(c) The department shall honor the request under par. (b) if the provider is actively participating in the program, is not currently under investigation for fraud or MA program abuse, is not subject to an intermediate sanction under <a href="#">s. DHS 106.08</a>, and is claiming and receiving MA reimbursement in amounts sufficient to reasonably ensure full recovery of the overpayment within a limited period of time. Any limited recovery period shall be consistent with the applicable federally required time period for the department's repayment of the federal financial participation associated with the overpayment as stated in 42 CFR 433.300-322.</p> <p>(d) If the department denies the provider's request under par. (b) to have the overpayment deducted from future amounts paid, the provider shall return to the department the full amount of the overpayment within 30 days after receipt of the department's written denial.</p> <p>(6) GOOD FAITH PAYMENT. A claim denied for recipient eligibility reasons may qualify for a good faith payment if the service provided was provided in good faith to a recipient with an MA identification card which the provider saw on the date of service and which was apparently valid for the date of service.</p> <p>HISTORY: Cr. Register, December, 1979, No. 288, eff. 2-1-80; am. Register, February, 1986, No. 362, eff. 3-1-86; r. (2) (b) 10. and 11., cr. (7) (f), Register, February, 1988, No. 386, eff. 3-1-88; renum. (2) (b) 5. to 9. to be 6. to 10. and am. 9. and 10., cr. (2) (b) 5., 11. and 12., Register, December, 1988, No. 396, eff. 1-1-89; emerg. am. (2) (a), r. (2) (b) to (c), renum. (2) (f) to be (2) (b), eff. 1-1-90; am. (2) (a), r. (2) (b) to (c), renum. (2) (f) to be (2) (b), Register, September, 1990, No. 417, eff. 10-1-90; emerg. cr. (1m), eff. 11-1-90; cr. (1m), Register, May, 1991, No. 425, eff. 6-1-91; am. (3) (intro.), Register, September, 1991, No. 429, eff. 10-1-91; emerg. am. (1m) (c) 1., renum. (1m) (d), (5) and (9) to be (1m) (e), (4) and (6) and am. (4), cr. (1m) (d), r. (4), (7) and (8), r. and recr. (6), eff. 7-1-92; am. (1m) (c) 1., renum. (1m) (d) and. (9) to be (1m) (e) and (6), cr. (1m) (d), r. and recr. (5), r. (6) to (8), Register, February, 1993, No. 446, eff. 3-1-93; correction in (3) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1999, No. 520; corrections in (2) (a) and (3) (c) made under s. 13.92 (4) (b) 7., Stats., Register December 2008 No. 636.</p> |
|                 | <div>Qui Tam Actions &amp; Remedies</div> <div>None</div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                 | <div>Whistle-blower Protections</div> <div><p>STATE EMPLOYMENT RELATIONS<br/>EMPLOYEE PROTECTION<br/><b>Wis. Stat. § 230.83</b><br/>Retaliatory action prohibited.</p><p>(1) No appointing authority, agent of an appointing authority or supervisor may initiate or administer, or threaten to initiate or administer, any retaliatory action against an employee.</p><p>(2) This section does not apply to an employee who discloses information if the employee knows or anticipates that the disclosure is likely to result in the receipt of anything of value for the employee or for the employee’s immediate family, unless the employee discloses information in pursuit of any award offered by any governmental unit for information to improve government administration or operation.</p><p>(3) Nothing in this section restricts the right of an employer to take appropriate disciplinary action against an employee who knowingly makes an untrue statement or discloses information the disclosure of which is expressly prohibited by state or federal law, rule or regulation.</p><p>History - 1983 a. 409.</p></div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |



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|                 | <p>STATE PERSONNEL<br/>STATE EMPLOYMENT RELATIONS<br/>EMPLOYEE FREEDOM OF SPEECH PROTECTION<br/>Wis. Stat. § 230.90<br/><b>Government employer retaliation prohibited.</b><br/>(1) In this section:</p> <p class="list-item-l1">(a) “Disciplinary action” means any action taken with respect to an employee which has the effect, in whole or in part, of a penalty.</p> <p class="list-item-l1">(b) “Employee” means any person employed by any governmental unit except:</p> <p class="list-item-l2">1. A person employed by the office of the governor, the courts, the legislature or a service agency under subch. IV of ch. 13.</p> <p class="list-item-l2">2. A person who is, or whose immediate supervisor is, assigned to an executive salary group under <a href="#">s. 20.923</a> or a person who has, or whose immediate supervisor has, a position specified in <a href="#">s. 36.115 (3m) (ae)</a> to (f).</p> <p class="list-item-l1">(c) “Governmental unit” means any association, authority, board, commission, department, independent agency, institution, office, society or other body in state government created or authorized to be created by the constitution or any law, including the legislature, the office of the governor and the courts. “Governmental unit” does not mean the University of Wisconsin Hospitals and Clinics Authority or any political subdivision of the state or body within one or more political subdivisions which is created by law or by action of one or more political subdivisions.</p> <p class="list-item-l1">(d) “Information” means information gained by the employee which the employee reasonably believes demonstrates:</p> <p class="list-item-l2">1. A violation of any state or federal law, rule or regulation.</p> <p class="list-item-l2">2. Mismanagement or abuse of authority in state government, a substantial waste of public funds or a danger to public health and safety.</p> <p>(2) An employee may bring an action in circuit court against his or her employer or employer’s agent, including this state, if the employer or employer’s agent retaliates, by engaging in a disciplinary action, against the employee because the employee exercised his or her rights under the <a href="#">first amendment to the U.S. constitution</a> or article I, section 3, of the Wisconsin constitution by lawfully disclosing information or because the employer or employer’s agent believes the employee so exercised his or her rights. The employee shall bring the action within 2 years after the action allegedly occurred or after the employee learned of the action, whichever occurs last. No employee may bring an action against the division of personnel management in the department of administration as an employer’s agent.</p> <p>(3) If, following the close of all evidence in an action under this section, a court or jury finds that retaliation was the primary factor in an employer’s or employer’s agent’s decision to engage in a disciplinary action, the court or jury may not consider any evidence offered by the employer or employer’s agent that the employer or employer’s agent would have engaged in the disciplinary action even if the employee had not disclosed, or the employer or employer’s agent had not believed the employee disclosed, the information.</p> <p>(4) If the court or jury finds that the employer or employer’s agent retaliated against the employee, the court shall take any appropriate action, including but not limited to the following:</p> <p class="list-item-l1">(a) Order placement of the employee in his or her previous position with or without back pay.</p> <p class="list-item-l1">(b) Order transfer of the employee to an available position for which the employee is qualified within the same governmental unit.</p> <p class="list-item-l1">(c) Order expungement of adverse material relating to the retaliatory action or threat from the employee’s personnel file.</p> <p class="list-item-l1">(cm) Order the employer to pay compensatory damages.</p> <p class="list-item-l1">(d) Order the employer to pay the employee’s reasonable attorney fees.</p> <p class="list-item-l1">(e) Order the employer or employer’s agent to insert a copy of the court order into the employee’s personnel file.</p> <p class="list-item-l1">(f) Recommend to the employer that disciplinary or other action be taken regarding the employer’s agent, including but not limited to any of the following:</p> <p class="list-item-l2">1. Placement of information describing the agent’s action in his or her personnel file.</p> <p class="list-item-l2">2. Issuance of a letter reprimanding the agent.</p> <p class="list-item-l2">3. Suspension.</p> <p class="list-item-l2">4. Termination.</p> <p><i>History - 1983 a. 409; 1985 a. 135; <a href="#">1995 a. 27</a>; <a href="#">1997 a. 237</a>; <a href="#">2003 a. 33 ss. 2726, 9160</a>; <a href="#">2005 a. 74</a>; <a href="#">2005 a. 155 ss. 13, 60</a>; Stats. 2005 <a href="#">s. 230.90</a>; <a href="#">2013 a. 20</a>; <a href="#">2015 a. 55</a>.</i></p> <hr/> <p><b>Health care worker protection.</b><br/>Wis. Stat. § 146.997 - <b>Health care worker protection.</b></p> <p>(1) <b>Definitions.</b> In this section:</p> <p class="list-item-l1">(a) “Department” means the department of workforce development.</p> <p class="list-item-l1">(b) “Disciplinary action” has the meaning given in <a href="#">s. 230.80 (2)</a>.</p> |

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|                 | <p>(c) “Health care facility” means a facility, as defined in <a href="#">s. 647.01 (4)</a>, or any hospital, nursing home, community-based residential facility, county home, county infirmary, county hospital, county mental health complex or other place licensed or approved by the department of health services under <a href="#">s. 49.70</a>, <a href="#">49.71</a>, <a href="#">49.72</a>, <a href="#">50.03</a>, <a href="#">50.35</a>, <a href="#">51.08</a> or <a href="#">51.09</a> or a facility under <a href="#">s. 45.50</a>, <a href="#">51.05</a>, <a href="#">51.06</a>, <a href="#">233.40</a>, <a href="#">233.41</a>, <a href="#">233.42</a> or <a href="#">252.10</a>.</p> <p>(d) “Health care provider” means any of the following:</p> <ol style="list-style-type: none"><li>1. A nurse licensed under ch. 441.</li><li>2. A chiropractor licensed under ch. 446.</li><li>3. A dentist licensed under ch. 447.</li><li>4. A physician, podiatrist, perfusionist, physical therapist, or physical therapist assistant licensed under ch. 448.</li><li>5. An occupational therapist, occupational therapy assistant, physician assistant or respiratory care practitioner certified under ch. 448.</li><li>6. A dietician certified under subch. V of ch. 448.</li><li>7. An optometrist licensed under ch. 449.</li><li>8. A pharmacist licensed under ch. 450.</li><li>9. An acupuncturist certified under ch. 451.</li><li>10. A psychologist licensed under ch. 455.</li><li>11. A social worker, marriage and family therapist or professional counselor certified under ch. 457.</li><li>12. A speech-language pathologist or audiologist licensed under subch. II of ch. 459 or a speech and language pathologist licensed by the department of public instruction.</li><li>13. A massage therapist or bodywork therapist licensed under ch. 460.</li><li>14. An emergency medical services practitioner licensed under s. 256.15 (5) or an emergency medical responder.</li><li>15. A partnership of any providers specified under subds. 1. to 14.</li><li>16. A corporation or limited liability company of any providers specified under subds. 1. to 14. that provides health care services.</li><li>17. A cooperative health care association organized under <a href="#">s. 185.981</a> that directly provides services through salaried employees in its own facility.</li><li>18. A hospice licensed under subch. VI of ch. 50.</li><li>19. A rural medical center, as defined in <a href="#">s. 50.50 (11)</a>.</li><li>20. A home health agency, as defined in <a href="#">s. 50.49 (1) (a)</a>.</li></ol> <p><b>(2) Reporting protected.</b></p> <p>(a) Any employee of a health care facility or of a health care provider who is aware of any information, the disclosure of which is not expressly prohibited by any state law or rule or any federal law or regulation, that would lead a reasonable person to believe any of the following may report that information to any agency, as defined in <a href="#">s. 111.32 (6) (a)</a>, of the state; to any professionally recognized accrediting or standard-setting body that has accredited, certified or otherwise approved the health care facility or health care provider; to any officer or director of the health care facility or health care provider; or to any employee of the health care facility or health care provider who is in a supervisory capacity or in a position to take corrective action:</p> <ol style="list-style-type: none"><li>1. That the health care facility or health care provider or any employee of the health care facility or health care provider has violated any state law or rule or federal law or regulation.</li><li>2. That there exists any situation in which the quality of any health care service provided by the health care facility or health care provider or by any employee of the health care facility or health care provider violates any standard established by any state law or rule or federal law or regulation or any clinical or ethical standard established by a professionally recognized accrediting or standard-setting body and poses a potential risk to public health or safety.</li></ol> <p>(b) An agency or accrediting or standard-setting body that receives a report under par. (a) shall, within 5 days after receiving the report, notify the health care facility or health provider that is the subject of the report, in writing, that a report alleging a violation specified in par. (a) 1. or 2. has been received and provide the health care facility or health care provider with a written summary of the contents of the report, unless the agency, or accrediting or standard-setting body determines that providing that notification and summary would jeopardize an ongoing investigation of a violation alleged in the report. The notification and summary may not disclose the identity of the person who made the report.</p> <p>(c) Any employee of a health care facility or health care provider may initiate, participate in or testify in any action or proceeding in which a violation specified in par. (a) 1. or 2. is alleged.</p> <p>(d) Any employee of a health care facility or health care provider may provide any information relating to an alleged violation specified in par. (a) 1. or 2. to any legislator or legislative committee.</p> <p><b>(3) Disciplinary action prohibited.</b></p> <p>(a) No health care facility or health care provider and no employee of a health care facility or health care provider may take disciplinary action against, or threaten to take disciplinary action against, any person because the person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d) or because the health care facility, health care provider or employee believes that the person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d).</p> |

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|                                                                                                                           | <p>(b) No health care facility or health care provider and no employee of a health care facility or health care provider may take disciplinary action against, or threaten to take disciplinary action against, any person on whose behalf another person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d) or because the health care facility, health care provider or employee believes that another person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d) on that person’s behalf.</p> <p>(c) For purposes of pars. (a) and (b), an employee is not acting in good faith if the employee reports any information under sub. (2) (a) that the employee knows or should know is false or misleading, initiates, participates in or testifies in any action or proceeding under sub. (2) (c) based on information that the employee knows or should know is false or misleading or provides any information under sub. (2) (d) that the employee knows or should know is false or misleading.</p> <p><b>(4) Enforcement.</b></p> <p>(a) Any employee of a health care facility or health care provider who is subjected to disciplinary action, or who is threatened with disciplinary action, in violation of sub. (3) may file a complaint with the department under <a href="#">s. 106.54 (6)</a>. If the department finds that a violation of sub. (3) has been committed, the department may take such action under <a href="#">s. 111.39</a> as will effectuate the purpose of this section.</p> <p>(c) <a href="#">Section 111.322 (2m)</a> applies to a disciplinary action arising in connection with any proceeding under par. (a).</p> <p><b>(5) Civil penalty.</b> Any health care facility or health care provider and any employee of a health care facility or health care provider who takes disciplinary action against, or who threatens to take disciplinary action against, any person in violation of sub. (3) may be required to forfeit not more than \$1,000 for a first violation, not more than \$5,000 for a violation committed within 12 months of a previous violation and not more than \$10,000 for a violation committed within 12 months of 2 or more previous violations. The 12-month period shall be measured by using the dates of the violations that resulted in convictions.</p> <p><b>(6) Posting of notice.</b> Each health care facility and health care provider shall post, in one or more conspicuous places where notices to employees are customarily posted, a notice in a form approved by the department setting forth employees’ rights under this section. Any health care facility or health care provider that violates this subsection shall forfeit not more than \$100 for each offense.</p> <p>History - <a href="#">1999 a. 176, 186; 2001 a. 38, 70, 74, 89, 105; 2003 a. 33; 2005 a. 22; 2007 a. 20 s. 9121</a>(6) (a); <a href="#">2007 a. 130; 2009 a. 165, 355</a>; 2016 a. 265; <a href="#">2017 a. 12</a>.</p> |
| <u>Wyoming</u><br><br>Wyo. Stat. § 42-4-301 - 306<br><br>Wyo. Stat. § 42-4-111<br><br>Wyo. Stat. § 9-11-101 to § 9-11-103 | <p><b>Criminal and Civil Penalties for False Claims and Statements</b></p> <p><i>Other Helpful Information About Medicaid Fraud &amp; Reporting Fraud</i><br/>Wyoming Medicaid Program Integrity - <a href="https://health.wyo.gov/healthcarefin/program-integrity/">https://health.wyo.gov/healthcarefin/program-integrity/</a><br/><a href="https://ag.wyo.gov/law-office-division/medicaid-fraud-control-unit">https://ag.wyo.gov/law-office-division/medicaid-fraud-control-unit</a><br/><a href="https://ag.wyo.gov/law-office-division/medicaid-fraud-control-unit/frequently-asked-questions">https://ag.wyo.gov/law-office-division/medicaid-fraud-control-unit/frequently-asked-questions</a></p> <p>Wyo. Stat. § 42-4-301 - <b>Short title.</b></p> <p>This act shall be known and may be cited as the "Wyoming Medicaid False Claims Act."</p> <p><b>HISTORY:</b> Laws 2013, ch. 118, § 1.<br/>Wyo. Stat. § 42-4-302 - <b>Definitions.</b></p> <p><b>(a)</b> As used in this act:</p> <p>(i) "Claim" means any request or demand under the Medicaid program, whether under a contract or otherwise, for money, property or services that:</p> <p>(A) Is presented to an officer, employee or agent of the state or a political subdivision of the state; or</p> <p>(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.</p> <p>(ii) "Material statement" means a statement that affects the payment or receipt of money or property;</p> <p>(iii) "This act" means <i>W.S. 42-4-301</i> through <i>42-4-306</i>.</p> <p><b>HISTORY:</b> Laws 2013, ch. 118, § 1.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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|                 | <p><i>Wyo. Stat. § 42-4-303</i> - Acts subjecting person to treble damages; costs and civil penalties; exceptions.</p> <p><b>W.S.1977 § 42-4-303</b><br/><b>§ 42-4-303. Acts subjecting person to treble damages; costs and civil penalties; exceptions</b><br/><u><a href="#">Currentness</a></u></p> <p>(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:</p> <p>(i) Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;</p> <p>(ii) Knowingly makes, uses or causes to be made or used, a false record or statement material to a false or fraudulent claim;</p> <p>(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;</p> <p>(iv) Conspires to commit a violation of paragraph (i), (ii) or (iii) of this subsection.</p> <p>(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:</p> <p>(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</p> <p>(ii) The person has substantially cooperated with any investigation by the state.</p> <p>(c) The provisions of subsections (a) and (b) of this section shall not apply to a recipient as defined by <u><a href="#">W.S. 42-1-101(a)(v)</a></u>. Any recipient who knowingly:</p> <p>(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);</p> <p>(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).</p> <p>Credits<br/><u><a href="#">Laws 2013, ch. 118, § 1, eff. July 1, 2013.</a></u></p> <p><i>W.S.1977 § 42-4-304</i><br/><b>§ 42-4-304. Investigations and prosecutions; powers of prosecuting authority; remedies for retaliation; venue; no private right of action</b><br/><u><a href="#">Currentness</a></u></p> <p>(a) The Medicaid fraud control unit created by <u><a href="#">W.S. 42-4-403</a></u> or a district attorney may investigate alleged violations of <u><a href="#">W.S. 42-4-303(a)</a></u> and <u><a href="#">(c)</a></u>. If the Medicaid fraud control unit or district attorney finds that a person has violated or is violating <u><a href="#">W.S. 42-4-303(a)</a></u> or <u><a href="#">(c)</a></u>, the unit or district attorney may bring a civil action under this section against that person.</p> <p>(b) Any employee, contractor or agent of a person being investigated for a violation of <u><a href="#">W.S. 42-4-303(a)</a></u> 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.</p> <p>(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.</p> <p>(d) Except as provided in subsection (b) of this section, nothing in this act shall be construed to create a private cause of action.</p> <p>(e) The remedies provided in this act are separate from and additional to any remedies available under the State Government Fraud Reduction Act.</p> <p><b>Credits</b><br/><u><a href="#">Laws 2013, ch. 118, § 1, eff. July 1, 2013; Laws 2019, ch. 96, § 2, eff. Feb. 26, 2019.</a></u></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p><i>Wyo. Stat. § 42-4-305</i> - <b>Limitation of actions; retroactivity; burden of proof.</b></p> <p><b>(a)</b> A civil action under <i>W.S. 42-4-304(a)</i> 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.</p> <p><b>(b)</b> In any action brought under <i>W.S. 42-4-304(a)</i>, the state shall be required to prove all essential elements of the cause of action, including damages, by clear and convincing evidence.</p> <p><b>(c)</b> 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 <i>W.S. 42-4-304</i>.</p> <p><b>HISTORY:</b> Laws 2013, ch. 118, § 1.</p> <p><i>Wyo. Stat. § 42-4-306</i> - <b>Remedies under other laws; liberality of construction; joint and several liability.</b></p> <p><b>(a)</b> 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.</p> <p><b>(b)</b> Liability pursuant to this act is joint and several for any violation done by two (2) or more persons.</p> <p><b>HISTORY:</b> Laws 2013, ch. 118, § 1.</p> <p>Title 42 Welfare<br/>Chapter 4 Medical Assistance and Services<br/>Article 1. In General<br/>Wyo. Stat. § 42-4-102 - <b>Definitions.</b></p> <p><b>(a)</b> As used in this chapter:</p> <p><b>(i)</b> "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;</p> <p><b>(ii)</b> "Medical assistance" means partial or full payment of the reasonable charges assessed by any authorized provider of the services and supplies enumerated under <a href="#">W.S. 42-4-103</a> 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;</p> <p><b>(iii)</b> "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;</p> <p><b>(iv)</b> "Relative" means any person as defined by department rule and regulation;</p> <p><b>(v)</b> "Resident" means any individual residing in this state, including any individual temporarily absent from this state;</p> <p><b>(vi)</b> "Institutionalized spouse" means as defined by the Medicare Catastrophic Coverage Act of 1988, P.L. 100-360;</p> <p><b>(vii)</b> "Department" means the state department of health;</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>(viii) "Direct patient care personnel" means only:</p> <p class="list-item-l1">(A) Certified nursing assistants;</p> <p class="list-item-l1">(B) Licensed practical nurses;</p> <p class="list-item-l1">(C) Registered nurses.</p> <p>(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 <a href="#">W.S. 42-4-104(d)</a>;</p> <p>(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;</p> <p>(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;</p> <p>(xii) "Intentional" means that a person, with respect to information, intended to act in violation of the law;</p> <p>(xiii) "Knowing" or "knowingly" includes intentional or intentionally and means that a person, with respect to information, acts:</p> <p class="list-item-l1">(A) With actual knowledge of the information;</p> <p class="list-item-l1">(B) In deliberate ignorance of the truth or falsity of the information; or</p> <p class="list-item-l1">(C) In reckless disregard of the truth or falsity of the information.</p> <p><b>HISTORY:</b> 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, <a href="#">§§ 6-5-201, 42-4-103</a>; 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; <a href="#">1990, ch. 65, § 1</a>; <a href="#">1991, ch. 221, § 2</a>; <a href="#">2002 Sp. Sess., ch. 63, § 1</a>; <a href="#">2008, ch. 70, § 1</a>; <a href="#">2011, ch. 164, § 1</a>; <a href="#">2013, ch. 118, § 2</a>.</p> <p>Wyo. Stat. § 42-4-111</p> <p><b>Providing or obtaining assistance by misrepresentation; penalties.</b></p> <p><b>§ 42-4-111. Providing or obtaining assistance by misrepresentation; penalties</b></p> <p><a href="#">Currentness</a></p> <p>(a), (b) Repealed by <a href="#">Laws 2019, ch. 96, § 3, eff. Feb. 26, 2019</a>.</p> <p>(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.</p> <p>(d), (e) Repealed by <a href="#">Laws 2019, ch. 96, § 3, eff. Feb. 26, 2019</a>.</p> <p><b>Credits</b></p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>Title 26 Insurance Code<br/>Chapter 13 Trade Practices and Frauds<br/>Article 2. False Applications, Claims and Proof of Loss<br/>Wyo. Stat. § 26-13-201<br/><b>False applications, claims and proofs of loss prohibited.</b></p> <p>(a) No person shall knowingly or willfully:</p> <p>(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;</p> <p>(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;</p> <p>(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.</p> <p><b>HISTORY:</b> (Laws 1967, ch. 136, § 265; W.S. 1957, § 26.1-265; W.S. 1977, <a href="#">§ 26-13-124</a>; Laws 1983, ch. 190, § 1.)</p> <p>Wyo. Stat. § 26-13-202<br/><b>Penalties.</b></p> <p>Any person who violates this article is subject to the penalty provided in <i>W.S. 26-1-107</i>, or as provided by any other applicable law which provides a greater penalty.</p> <p><b>HISTORY:</b> (Laws 1967, ch. 136, § 265; W.S. 1957, § 26.1-264; W.S. 1977, <a href="#">§ 26-13-124</a>; Laws 1983, ch. 190, § 1.)</p> <p>Wyo. Stat. § 26-1-107<br/><b>General criminal and civil penalties.</b></p> <p>(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.</p> <p>(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 <a href="#">W.S. 8-1-109</a>.</p> <p>(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.</p> <p>(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.</p> <p>(e) The provisions of this section are in addition to and not instead of any other enforcement provisions contained in this code.</p> |



| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p><b>HISTORY:</b> 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; <a href="#">2005, ch. 157, § 2</a>; <a href="#">2015, ch. 13, § 1</a>.</p> <p>Public Health &amp; Safety<br/>Wyo. Stat. § 35-1-105</p> <p><b>Prohibited acts; penalty for violations.</b></p> <p>(a) No person, corporation or other organization nor representative thereof shall:</p> <ul style="list-style-type: none"><li>(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;</li><li>(ii) Repealed by Laws 1982, ch. 75, § 5.</li><li>(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;</li><li>(iv) Conduct a business or activity for which the department requires a certificate or permit without such a certificate or permit;</li><li>(v) Willfully and falsely make or alter any certificate or certified copy thereof issued pursuant to public health laws of Wyoming;</li><li>(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</li><li>(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.</li></ul> <p>(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.</p> <p><i>History - Laws 1947, ch. 67, § 11; W.S. 1957, § 34-5; Laws 1961, ch. 207, § 1; 1982, ch. 75, § 5; 1983, ch. 171, § 3; <a href="#">1991, ch. 221, § 2</a>; <a href="#">2012, ch. 98, § 1</a>; <a href="#">2017, ch. 172, § 1</a>.</i></p> <hr/> <p>Wyo. Stat. § 35-1-106</p> <p><b>Penalty for violations.</b></p> <p>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.</p> <p><b>HISTORY:</b> (Laws 1921, ch. 160, § 27; R.S. 1931, § 103-238; C.S. 1945, § 63-143; W.S. 1957, § 35-6; <a href="#">Laws 1991, ch. 221, § 2</a>.)</p> <p>Title 33 Professions and Occupations<br/>Chapter 26 Physicians and Surgeons<br/>Article 4. Investigations and Disciplinary Proceedings<br/>Wyo. Stat. § 33-26-402</p> <p><b>W.S.1977 § 33-26-402</b><br/><b>§ 33-26-402. Grounds for suspension; revocation; restriction; imposition of conditions; refusal to renew or other disciplinary action</b><br/><a href="#"><u>Currentness</u></a></p> <p>(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:</p> <ul style="list-style-type: none"><li>(i) Renewing, obtaining or attempting to obtain or renew a license by bribery, fraud or misrepresentation;</li><li>(ii) Impersonating another licensee or practicing medicine under a false or assumed name;</li><li>(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;</li></ul> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    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|                 | <p>(iv) Permitting or allowing any person to use his diploma, license or certificate of registration;</p> <p>(v) Advertising the practice of medicine in a misleading, false or deceptive manner;</p> <p>(vi) Obtaining any fee or claim for payment of a fee by fraud or misrepresentation;</p> <p>(vii) Repealed by <a href="#">Laws 2018, ch. 80, § 3</a>;</p> <p>(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;</p> <p>(ix) Aiding or abetting the practice of medicine by a person not licensed by the board;</p> <p>(x) Violating or attempting to violate or assist in the violation of any provision of this chapter or any other applicable provision of law;</p> <p>(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;</p> <p>(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;</p> <p>(xiii) Presigning blank prescription forms;</p> <p>(xiv) Failing or refusing to properly guard against the spread of contagious, infectious or communicable diseases;</p> <p>(xv) Failure to appropriately supervise nonphysicians to whom the licensee has delegated medical responsibilities;</p> <p>(xvi) Delegating responsibilities to a person who is not qualified by training, experience or licensure;</p> <p>(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;</p> <p>(xviii) Willful and consistent utilization of medical service or treatment which is inappropriate or unnecessary;</p> <p>(xix) A manifest incapacity to practice medicine with reasonable skill and safety to patients;</p> <p>(xx) Possession of any physical or mental disability including deterioration due to aging which renders the practice of medicine unsafe;</p> <p>(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;</p> <p>(xxii) Practicing medicine below the applicable standard of care, regardless of causation or damage;</p> <p>(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 <a href="#">W.S. 33-26-403</a>;</p> <p>(xxiv) Failure to report a personal injury claim as required by <a href="#">W.S. 33-26-409</a>;</p> <p>(xxv) Suspension, probation, imposition of conditions or restrictions, relinquishment, surrender or revocation of a license to practice medicine in another jurisdiction;</p> <p>(xxvi) Any action by a health care entity that:</p> <p>(A) Adversely affects clinical privileges for a period of thirty (30) or more consecutive days;</p> <p>(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</p> <p>(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.</p> <p>(xxvii) Unprofessional or dishonorable conduct not otherwise specified in this subsection, including but not limited to:</p> <p>(A) Repealed by <a href="#">Laws 2003, ch. 190, § 3</a>;</p> <p>(B) Failure to conform to the applicable standard of care;</p> <p>(C) Willful or careless disregard for the health, welfare or safety of a patient;</p> <p>(D) Engaging in any conduct or practice that is harmful or dangerous to the health of a patient or the public;</p> <p>(E) Engaging in conduct intended to or likely to deceive, defraud or harm the public;</p> <p>(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;</p> <p>(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;</p> <p>(H) Practicing outside of the scope of the licensee's expertise and training;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(N) Improperly terminating a physician-patient relationship;</p> <p>(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> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(T) Using or engaging in fraud or deceit to obtain third party reimbursement.</p> <p>(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;</p> <p>(xxix), (xxx) Repealed by <a href="#">Laws 2003, ch. 190, § 3</a>.</p> <p>(xxxi) Violation of any board rule or regulation;</p> <p>(xxxii) Acquiring or attempting or conspiring to acquire any drug classified as a narcotic, addicting or scheduled drug by fraud or deception;</p> <p>(xxxiii) Initially prescribing any controlled substance specified in <a href="#">W.S. 35-7-1016</a> through <a href="#">35-7-1022</a> 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;</p> <p>(xxxiv) Violating any final order, consent decree or stipulation between the board and the licensee;</p> <p>(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.</p> <p>(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.</p> <p>Credits</p> <p>Laws 1976, ch. 24, § 1; Laws 1987, ch. 79, § 1; <a href="#">Laws 1991, ch. 143, § 1</a>; <a href="#">Laws 1995, ch. 129, § 1, eff. July 1, 1995</a>; <a href="#">Laws 2003, ch. 190, §§ 2, 3, eff. July 1, 2003</a>; <a href="#">Laws 2009, ch. 201, § 1, eff. March 12, 2009</a>; <a href="#">Laws 2018, ch. 80, §§ 2, 3, eff. July 1, 2018</a>; <a href="#">Laws 2018, ch. 107, § 2, eff. July 1, 2018</a>.</p> |
|                 | Qui Tam Actions & Remedies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                 | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|                 | Whistle-blower Protections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                 | <p>W.S.1977 § 42-4-304</p> <p><b>§ 42-4-304. Investigations and prosecutions; powers of prosecuting authority; remedies for retaliation; venue; no private right of action</b></p> <p><u>Currentness</u></p> <p>(a) The Medicaid fraud control unit created by <a href="#">W.S. 42-4-403</a> or a district attorney may investigate alleged violations of <a href="#">W.S. 42-4-303(a)</a> and (c). If the Medicaid fraud control unit or district attorney finds that a person has violated or is violating <a href="#">W.S. 42-4-303(a)</a> or (c), the unit or district attorney may bring a civil action under this section against that person.</p> <p>(b) Any employee, contractor or agent of a person being investigated for a violation of <a href="#">W.S. 42-4-303(a)</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.</p> <p>(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.</p> <p>(d) Except as provided in subsection (b) of this section, nothing in this act shall be construed to create a private cause of action.</p> <p>(e) The remedies provided in this act are separate from and additional to any remedies available under the State Government Fraud Reduction Act.</p> <p>Credits</p> <p><a href="#">Laws 2013, ch. 118, § 1, eff. July 1, 2013</a>; <a href="#">Laws 2019, ch. 96, § 2, eff. Feb. 26, 2019</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>Wyo. Stat. § 9-11-101<br/>This chapter may be cited as the "<b>State Government Fraud Reduction Act.</b>"<br/><b>HISTORY:</b> <a href="#">Laws 1996, ch. 123, § 1.</a></p> <p>Wyo. Stat. § 9-11-102<br/><b>Definitions; applicability.</b></p> <p>(a) As used in this chapter:</p> <p>(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;</p> <p>(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;</p> <p>(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.<br/><b>HISTORY:</b> (<a href="#">Laws 1996, ch. 123, § 1.</a>)</p> <p>Wyo. Stat. § 9-11-103<br/><b>Discrimination against certain employees prohibited; civil action against employer.</b></p> <p>(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:</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(iv) Participates or is requested to participate in any investigation, hearing or inquiry; or</p> <p>(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.</p> <p>(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.</p> <p>(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</p> |

| State /Citation | False Claims Laws                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>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.</p> <p>(d) A state employer shall ensure that its employees are aware of their rights under this chapter.</p> <p><b>HISTORY:</b> <i><a href="#">Laws 1996, ch. 123, § 1</a>; <a href="#">2013, ch. 16, § 1</a>.</i></p> |

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