

Legislative Analysis



INCREASE CIVIL PENALTY FOR FRAUDULENT MEDICAID CLAIMS

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House Bill 5757

Sponsor: Rep. Marc Corriveau

Committee: Judiciary

Complete to 3-11-08

A SUMMARY OF HOUSE BILL 5757 AS INTRODUCED 2-19-08

The Medicaid False Claim Act provides the state with the means to prosecute those who make fraudulent claims under the Social Welfare Act against the Department of Community Health. House Bill 5757 would amend the Medicaid False Claims Act to specifically prohibit making or using a false record to avoid payment to the state regarding a claim for Medicaid benefits and to create a civil fine penalty for receiving benefits by reason of fraud.

Under the bill, a person would be prohibited from 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 pertaining to a claim for Medicaid benefits.

The act currently defines “*knowingly*” to mean *that a person is in possession of facts under which he or she is aware or should be aware of the nature of his or her conduct and that his or her conduct is substantially certain to cause the payment of a Medicaid benefit. Knowing or knowingly does not include conduct which is an error or mistake unless the person's course of conduct indicates a systematic or persistent tendency to cause inaccuracies to be present.*

Also currently, the act requires a person who receives a benefit that he or she is not entitled to receive to pay to the state a civil penalty equal to the full amount received plus triple the amount of damages suffered by the state as a result of the person's conduct. (This applies to improper amounts received by reason of fraud, making a fraudulent statement, or knowingly concealing a material fact.) House Bill 5757 would include – as prohibited conduct for which the civil penalty applies – engaging in any conduct prohibited by the Medicaid False Claims Act. The bill would also create an additional civil penalty of not less than \$5,000 for a violation.

MCL 400.607 and 400.612

FISCAL IMPACT:

The federal government created an incentive within the Deficit Reduction Act, Sec. 6031, for states to enact false claims acts that are comparable to the federal False Claims Act.

Effective January 1, 2007, the federal government will give to a state 10 percent of any funds recovered as part of Medicaid enforcement actions brought under that state's law that should have otherwise gone to the federal government.

The Executive's proposed FY 2008-09 Department of Community Health budget includes \$100,000 GF/GP savings, recognizing increased collections on Medicaid False Claims Act recoveries if the state statute sufficiently resembles federal law.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.