

SENATE FILE NO. SF0081

Medicaid fraud recovery.

Sponsored by: Senator(s) Peterson and Dockstader and  
Representative(s) Greene, Harvey and Miller

A BILL

for

1 AN ACT relating to Medicaid; creating the Wyoming Medicaid  
2 False Claims Act; authorizing civil recoveries for the  
3 state as specified; prescribing duties of the attorney  
4 general; providing procedures; providing for a limitations  
5 period and applicability of the act; providing definitions;  
6 prescribing criminal penalties as specified for failure to  
7 maintain required records; creating a cause of action for  
8 retaliatory employment actions; and providing for an  
9 effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 42-4-301 through 42-4-306 are created  
14 to read:

15

16

ARTICLE 3

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FALSE MEDICAID CLAIMS

**42-4-301. Short title.**

This act shall be known and may be cited as the "Wyoming Medicaid False Claims Act."

**42-4-302. Definitions.**

(a) As used in this act:

(i) "Claim" means any request or demand under the Medicaid program, whether under a contract or otherwise, for money, property or services that:

(A) Is presented to an officer, employee or agent of the state; or

(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:

1 (I) Provides or has provided any  
2 portion of the money or property requested or demanded; or

3

4 (II) Will reimburse the contractor,  
5 grantee or other recipient for any portion of the money or  
6 property which is requested or demanded.

7

8 (ii) "Knowing" and "knowingly" mean that a  
9 person, with respect to information, and with or without  
10 specific intent to defraud:

11

12 (A) Has actual knowledge of the  
13 information;

14

15 (B) Acts in deliberate ignorance of the  
16 truth or falsity of the information; or

17

18 (C) Acts in reckless disregard of the truth  
19 or falsity of the information.

20

21 (iii) "Material" means having a natural tendency  
22 to influence, or be capable of influencing, the payment or  
23 receipt of money or property;

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1           (iv) "This act" means W.S. 42-4-301 through  
2 42-4-306.

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4           **42-4-303. Acts subjecting person to treble damages;  
5 costs and civil penalties; exceptions.**

6

7           (a) Any person who commits any of the following acts  
8 in relation to the Wyoming Medical Assistance and Services  
9 Act shall be liable to the state for three (3) times the  
10 amount of damages which the state sustains because of the  
11 act of that person. A person who commits any of the  
12 following acts shall also be liable to the state for the  
13 costs of a civil action brought to recover any of those  
14 penalties or damages, and shall be liable to the state for  
15 a civil penalty of not less than one thousand dollars  
16 (\$1,000.00) and not more than ten thousand dollars  
17 (\$10,000.00) for each violation:

18

19           (i) Knowingly presents or causes to be presented  
20 a false or fraudulent claim for payment or approval;

21

22           (ii) Knowingly makes, uses or causes to be made  
23 or used, a false record or statement material to a false or  
24 fraudulent claim;

1

2 (iii) Is a beneficiary of an inadvertent  
3 submission of a false claim to any employee, officer or  
4 agent of the state or a political subdivision of the state,  
5 or to any contractor, grantee or other recipient of state  
6 funds or funds of any political subdivision of the state,  
7 who subsequently discovers the falsity of the claim and  
8 fails to disclose the false claim and make satisfactory  
9 arrangements for repayment to the state or affected  
10 political subdivision within ninety (90) days after  
11 discovery of the false claim;

12

13 (iv) Conspires to commit a violation of  
14 paragraph (i), (ii) or (iii) of this subsection.

15

16 (b) Notwithstanding subsection (a) of this section,  
17 the court may assess not more than two (2) times the amount  
18 of damages which the state sustains because of the act of a  
19 violation of subsection (a) of this section, and no civil  
20 penalty, if the court finds all of the following:

21

22 (i) The person committing the violation  
23 furnished officials of the state who are responsible for  
24 investigating false claims violations with all information

1 known to that person about the violation within thirty (30)  
2 days after the date on which the person first obtained the  
3 information;

4

5 (ii) The person fully cooperated with any  
6 investigation by the state;

7

8 (iii) At the time the person furnished the state  
9 with information about the violation, no criminal  
10 prosecution, civil action or administrative action had  
11 commenced with respect to the violation and the person did  
12 not have actual knowledge of the existence of an  
13 investigation into the violation.

14

15 **42-4-304. Attorney general investigations and**  
16 **prosecutions; powers of prosecuting authority; remedies for**  
17 **retaliation; venue; no private right of action.**

18

19 (a) The attorney general shall diligently investigate  
20 alleged violations under W.S. 42-4-303(a). If the attorney  
21 general finds that a person has violated or is violating  
22 W.S. 42-4-303(a), the attorney general may bring a civil  
23 action under this section against that person.

24

1           (b) Any employee, contractor or agent of a person  
2 being investigated for a violation of W.S. 42-4-303(a)  
3 shall be entitled to recover all economic losses suffered  
4 if that employee, contractor or agent is discharged,  
5 demoted, suspended, threatened, harassed or in any other  
6 manner retaliated against in the terms and conditions of  
7 employment because of lawful acts taken in good faith by  
8 the employee or others in an action reported, filed or  
9 investigated under this act. An action by an employee,  
10 contractor or agent under this subsection may not be  
11 brought more than three (3) years after the date when the  
12 retaliation occurred. A person may bring an action in the  
13 appropriate district court for the relief provided in this  
14 section. This section shall not otherwise be construed to  
15 create a private cause of action for violations of this act  
16 and is limited to the remedies expressly created by this  
17 section related to employment retaliation.

18

19           (c) Any action under this act may be brought in the  
20 district court of any county in which the defendant, or any  
21 of them, resides or transacts business or in which any act  
22 prohibited by W.S. 42-4-303 occurred.

23

1           (d) Except as provided in subsection (b) of this  
2 section, nothing in this act shall be construed to create a  
3 private cause of action.

4

5           **42-4-305. Limitation of actions; retroactivity;**  
6 **burden of proof.**

7

8           (a) A civil action under W.S. 42-4-304 may not be  
9 brought more than six (6) years after the date on which the  
10 violation was committed or more than three (3) years after  
11 the date when facts material to the right of action are  
12 known or reasonably should have been known by the official  
13 of the state charged with responsibility to act in the  
14 circumstances, whichever occurs last, provided that in no  
15 event shall a civil action be brought more than ten (10)  
16 years after the date on which the violation is committed.

17

18           (b) A civil action under this act may be brought for  
19 activity prior to the effective date of this act if the  
20 limitation period of subsection (a) of this section has not  
21 lapsed.

22

23           (c) In any action brought under W.S. 42-4-304, the  
24 state shall be required to prove all essential elements of

1 the cause of action, including damages, by a preponderance  
2 of the evidence.

3

4 (d) Notwithstanding any other provision of law, a  
5 guilty verdict rendered in a criminal proceeding charging  
6 false statements or fraud, whether upon a verdict after  
7 trial or upon a plea of guilty or nolo contendere, shall  
8 estop the defendant from denying the essential elements of  
9 the offense in any action which involves the same  
10 transaction as in the criminal proceeding and which is  
11 brought under W.S. 42-4-304.

12

13 **42-4-306. Remedies under other laws; liberality of**  
14 **construction; joint and several liability.**

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16 (a) The provisions of this act are not exclusive, and  
17 the remedies provided for in this act shall be in addition  
18 to any other remedies provided for in any other law or  
19 available under common law.

20

21 (b) Liability pursuant to this act is joint and  
22 several for any violation done by two (2) or more persons.

23

1           **Section 2.** W.S. 42-4-102(a) by creating new  
2 paragraphs (xii) and (xiii) and 42-4-111 by creating a new  
3 subsection (e) are amended to read:

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5           **42-4-102. Definitions.**

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7           (a) As used in this chapter:

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9                   (xii) "Intentional" means that a person, with  
10 respect to information, intended to act in violation of the  
11 law;

12

13                   (xiii) "Knowing" or "knowingly" includes  
14 intentional or intentionally and means that a person, with  
15 respect to information, acts:

16

17                   (A) With actual knowledge of the  
18 information;

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20                   (B) In deliberate ignorance of the truth or  
21 falsity of the information; or

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23                   (C) In reckless disregard of the truth or  
24 falsity of the information.

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2           **42-4-111. Providing or obtaining assistance by**  
3 **misrepresentation; penalties.**

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5           (e) A person who fails to maintain records in  
6 accordance with Medicaid program rules and requirements for  
7 medical assistance is guilty of:

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9           (i) A felony punishable by imprisonment for not  
10 more than ten (10) years, a fine of not more than ten  
11 thousand dollars (\$10,000.00), or both, if the value of  
12 related medical assistance is five hundred dollars  
13 (\$500.00) or more;

14

15           (ii) A misdemeanor punishable by imprisonment  
16 for not more than six (6) months, a fine of not more than  
17 seven hundred fifty dollars (\$750.00), or both, if the  
18 value of related medical assistance is less than five  
19 hundred dollars (\$500.00).

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21           **Section 3.** This act is effective July 1, 2012.

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23

(END)