
HOUSE BILL 2326

State of Washington

65th Legislature

2018 Regular Session

By Representatives Ryu and Haler; by request of Attorney General

Prefiled 12/26/17.

1 AN ACT Relating to medicaid fraud false claims civil penalties;
2 amending RCW 74.66.020; creating a new section; and prescribing
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature
6 through this act to strongly deter medicaid provider fraud and ensure
7 maximum recoveries for the state in actions under chapter 74.66 RCW,
8 the state medicaid fraud false claims act. Specifically, it is the
9 policy of the state to maintain compliance with the federal deficit
10 reduction act, codified as section 1909 of the federal social
11 security act (42 U.S.C. Sec. 1396h), and thereby obtain the
12 additional ten percent share of state medicaid fraud false claims act
13 recoveries afforded by the federal deficit reduction act for
14 compliant states, while encouraging qui tam whistleblower complaints
15 to at least the same extent as the federal false claims act (31
16 U.S.C. Sec. 3729 et seq.).

17 **Sec. 2.** RCW 74.66.020 and 2012 c 241 s 202 are each amended to
18 read as follows:

19 (1) Subject to subsections (2) and (4) of this section, a person
20 is liable to the government entity for a civil penalty of not less

1 than (~~five thousand five hundred dollars and not more than eleven~~
2 ~~thousand dollars~~) the greater of ten thousand nine hundred fifty-
3 seven dollars or the minimum inflation adjusted penalty amount
4 imposed as provided by 31 U.S.C. Sec. 3729(a) and not more than the
5 greater of twenty-one thousand nine hundred sixteen dollars or the
6 maximum inflation adjusted penalty amount imposed as provided by 31
7 U.S.C. Sec. 3729(a), plus three times the amount of damages which the
8 government entity sustains because of the act of that person, if the
9 person:

10 (a) Knowingly presents, or causes to be presented, a false or
11 fraudulent claim for payment or approval;

12 (b) Knowingly makes, uses, or causes to be made or used, a false
13 record or statement material to a false or fraudulent claim;

14 (c) Conspires to commit one or more of the violations in this
15 subsection (1);

16 (d) Has possession, custody, or control of property or money
17 used, or to be used, by the government entity and knowingly delivers,
18 or causes to be delivered, less than all of that money or property;

19 (e) Is authorized to make or deliver a document certifying
20 receipt of property used, or to be used, by the government entity
21 and, intending to defraud the government entity, makes or delivers
22 the receipt without completely knowing that the information on the
23 receipt is true;

24 (f) Knowingly buys, or receives as a pledge of an obligation or
25 debt, public property from an officer or employee of the government
26 entity who lawfully may not sell or pledge property; or

27 (g) Knowingly makes, uses, or causes to be made or used(~~(7)~~) a
28 false record or statement material to an obligation to pay or
29 transmit money or property to the government entity, or knowingly
30 conceals or knowingly and improperly avoids or decreases an
31 obligation to pay or transmit money or property to the government
32 entity.

33 (2) The court may assess not less than two times the amount of
34 damages which the government entity sustains because of the act of a
35 person, if the court finds that:

36 (a) The person committing the violation of subsection (1) of this
37 section furnished the Washington state attorney general with all
38 information known to him or her about the violation within thirty
39 days after the date on which he or she first obtained the
40 information;

1 (b) The person fully cooperated with any investigation by the
2 attorney general of the violation; and

3 (c) At the time the person furnished the attorney general with
4 the information about the violation, no criminal prosecution, civil
5 action, or administrative action had commenced under this title with
6 respect to the violation, and the person did not have actual
7 knowledge of the existence of an investigation into the violation.

8 (3) A person violating this section is liable to the attorney
9 general for the costs of a civil action brought to recover any such
10 penalty or damages.

11 (4) For the purposes of determining whether an insurer has a duty
12 to provide a defense or indemnification for an insured and if
13 coverage may be denied if the terms of the policy exclude coverage
14 for intentional acts, a violation of subsection (1) of this section
15 is an intentional act.

16 ~~((5) The office of the attorney general must, by rule, annually
17 adjust the civil penalties established in subsection (1) of this
18 section so that they are equivalent to the civil penalties provided
19 under the federal false claims act and in accordance with the federal
20 civil penalties inflation adjustment act of 1990.))~~

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