

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

## 1 FALSE MEDICAID CLAIMS

2

3 **42-4-301. Short title.**

4

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

7

8 **42-4-302. Definitions.**

9

10 (a) As used in this act:

11

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

15

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

18

19 (B) Is made to a contractor, grantee or  
20 other recipient, if the money or property is to be spent or  
21 used on the state's behalf or to advance a state program or  
22 interest, and if the state:

23

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;

24

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

3

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 a reasonable time 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) An innocent mistake shall be a defense to an  
17 action under this act.

18

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

24

1           (i) The person committing the violation  
2 furnished officials of the state who are responsible for  
3 investigating false claims violations with all information  
4 known to that person about the violation within thirty (30)  
5 days after the date on which the person first obtained the  
6 information;

7

8           (ii) The person fully cooperated with any  
9 investigation by the state;

10

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

17

18           **42-4-304. Attorney general investigations and**  
19 **prosecutions; powers of prosecuting authority; remedies for**  
20 **retaliation; venue; no private right of action.**

21

22           (a) The attorney general shall diligently investigate  
23 an alleged violation under W.S. 42-4-303(a). If the  
24 attorney general finds that a person has violated or is

1 violating W.S. 42-4-303(a), the attorney general may bring  
2 a civil action under this section against that person.

3

4 (b) Any employee, contractor or agent shall be  
5 entitled to all relief necessary to make that employee,  
6 contractor or agent whole if that employee, contractor or  
7 agent is discharged, demoted, suspended, threatened,  
8 harassed or in any other manner retaliated against in the  
9 terms and conditions of employment because of lawful acts  
10 taken in good faith by the employee or others in  
11 furtherance of an action under this act, including  
12 investigation for, initiation of, testimony for or  
13 assistance in an action filed or investigated under this  
14 act. An action under this subsection may not be brought  
15 more than three (3) years after the date when the  
16 retaliation occurred. A person may bring an action in the  
17 appropriate district court for the relief provided in this  
18 section. This section shall not otherwise be construed to  
19 create a private cause of action for violations of this act  
20 and is limited to the remedies expressly created by this  
21 section related to employment retaliation.

22

23 (c) Any action under this act may be brought in the  
24 district court of any county in which the defendant, or any

1 of them, resides or transacts business or in which any act  
2 prohibited by W.S. 42-4-303 occurred.

3

4 (d) Except as provided in this act, nothing in this  
5 act shall be construed to create a private cause of action.

6

7 **42-4-305. Limitation of actions; retroactivity;**  
8 **burden of proof.**

9

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

19

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

24



1           (c) In any action brought under W.S. 42-4-304, the  
2 state shall be required to prove all essential elements of  
3 the cause of action, including damages, by a preponderance  
4 of the evidence.

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

14  
15           **42-4-306. Remedies under other laws; liberality of**  
16 **construction; joint and several liability.**

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

22  
23           (b) This act shall be liberally construed and applied  
24 to promote the public interest.

1

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

4

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

8

9 **42-4-102. Definitions.**

10

11 (a) As used in this chapter:

12

13 (xii) "Intentional" means that a person, with  
14 respect to information, intended to act in violation of the  
15 law;

16

17 (xiii) "Knowing" or "knowingly" includes  
18 intentional or intentionally and means that a person, with  
19 respect to information, acts:

20

21 (A) With actual knowledge of the  
22 information;

23

1                   (B) In deliberate ignorance of the truth or  
2 falsity of the information; or

3

4                   (C) In reckless disregard of the truth or  
5 falsity of the information.

6

7           **42-4-111. Providing or obtaining assistance by**  
8 **misrepresentation; penalties.**

9

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

13

14                   (i) A felony punishable by imprisonment for not  
15 more than ten (10) years, a fine of not more than ten  
16 thousand dollars (\$10,000.00), or both, if the value of  
17 related medical assistance is five hundred dollars  
18 (\$500.00) or more;

19

20                   (ii) A misdemeanor punishable by imprisonment  
21 for not more than six (6) months, a fine of not more than  
22 seven hundred fifty dollars (\$750.00), or both, if the  
23 value of related medical assistance is less than five  
24 hundred dollars (\$500.00).

1

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

3

4   (END)