

ENROLLED ACT NO. 84, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

AN ACT relating to Medicaid; creating the Wyoming Medicaid False Claims Act; authorizing civil recoveries for the state as specified; providing duties of the attorney general and district attorneys; providing procedures; providing for a limitations period and applicability of the act; providing for admissibility of verdicts as specified; providing definitions; prescribing criminal penalties as specified for failure to maintain required records; creating a cause of action for retaliatory employment actions; and providing for an effective date.

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

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

ARTICLE 3
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 a political subdivision of the state; or

ORIGINAL SENATE
FILE NO. 0083

ENROLLED ACT NO. 84, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

(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.

(ii) "Material statement" means a statement that affects the payment or receipt of money or property;

(iii) "This act" means W.S. 42-4-301 through 42-4-306.

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

(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:

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

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

ORIGINAL SENATE
FILE NO. 0083

ENROLLED ACT NO. 84, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

(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;

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

(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:

(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

(ii) The person has substantially cooperated with any investigation by the state.

(c) The provisions of subsections (a) and (b) of this section shall not apply to a recipient as defined by W.S. 42-1-101(a)(v). Any recipient who knowingly:

(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

ORIGINAL SENATE
FILE NO. 0083

ENROLLED ACT NO. 84, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

claim and shall be liable for a civil penalty of not more than one thousand dollars (\$1,000.00);

(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).

42-4-304. Investigations and prosecutions; powers of prosecuting authority; remedies for retaliation; venue; no private right of action.

(a) The attorney general or a district attorney may investigate alleged violations of W.S. 42-4-303(a) and (c). If the attorney general or district attorney finds that a person has violated or is violating W.S. 42-4-303(a) or (c), the attorney general or district attorney may bring a civil action under this section against that person.

(b) Any employee, contractor or agent of a person being investigated for a violation of W.S. 42-4-303(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

ORIGINAL SENATE
FILE NO. 0083

ENROLLED ACT NO. 84, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

violations of this act and is limited to the remedies expressly created by this subsection related to employment retaliation.

(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.

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

(e) The remedies provided in this act are separate from and additional to any remedies available under the State Government Fraud Reduction Act.

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

(a) A civil action under W.S. 42-4-304(a) 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.

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

ORIGINAL SENATE
FILE NO. 0083

ENROLLED ACT NO. 84, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

the cause of action, including damages, by clear and convincing evidence.

(c) 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 W.S. 42-4-304.

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

(a) 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.

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

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

42-4-102. Definitions.

(a) As used in this chapter:

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

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

ORIGINAL SENATE
FILE NO. 0083

ENROLLED ACT NO. 84, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

(A) With actual knowledge of the information;

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

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

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

(e) It is unlawful for a person to knowingly fail to maintain records in accordance with Medicaid program rules as necessary to disclose fully the nature of the goods, services, items, facilities or accommodations for which a claim was submitted or payment was received under the Medicaid program. Any person who violates this subsection is guilty of:

(i) A misdemeanor punishable by imprisonment for not more than thirty (30) days, a fine of not more than seven hundred fifty dollars (\$750.00), or both, if:

(A) The medical assistance claimed for which records were not maintained is less than twenty-five percent (25%) of the Medicaid claims submitted by that person in any consecutive three (3) month period; and

(B) The value of the claims for which the records were not maintained is at least five thousand dollars (\$5,000.00).

(ii) A misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than one thousand dollars (\$1,000.00), or both, if:

ORIGINAL SENATE
FILE NO. 0083

ENROLLED ACT NO. 84, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

(A) The medical assistance claimed for which records were not maintained is twenty-five percent (25%) or more of the Medicaid claims submitted by that person in any consecutive three (3) month period; and

(B) The value of the claims for which the records were not maintained is at least five thousand dollars (\$5,000.00).

(iii) A felony punishable by imprisonment for not more than five (5) years, a fine of not more than ten thousand dollars (\$10,000.00), or both, if:

(A) The person intended to defraud and the medical assistance claimed for which records were not maintained is twenty-five percent (25%) or more of the Medicaid claims submitted by that person in any consecutive three (3) month period; and

(B) The value of the claims for which the records were not maintained is more than five thousand dollars (\$5,000.00).

ORIGINAL SENATE
FILE NO. 0083

ENROLLED ACT NO. 84, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

Section 3. This act is effective July 1, 2013.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk