

LEGISLATIVE BILL 277

Approved by the Governor May 7, 2013

Introduced by Harr, 8; Nordquist, 7; Seiler, 33.

FOR AN ACT relating to the False Medicaid Claims Act; to amend sections 68-935 and 68-936, Reissue Revised Statutes of Nebraska; to define and redefine terms; to change provisions relating to presentation of a false medicaid claim; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 68-935, Reissue Revised Statutes of Nebraska, is amended to read:

68-935 For purposes of the False Medicaid Claims Act:

(1) Attorney General means the Attorney General, the office of the Attorney General, or a designee of the Attorney General;

~~(2) Claim means any request or demand, whether under a contract or otherwise, for money or property that is made to a contractor, grantee, provider, or other recipient if the state provides any portion of the money or property that is requested or demanded or if the government will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded, whether or not the state pays any portion of such request or demand;~~

(2) Claim means any request or demand, whether under a contract or otherwise, for money or property, and whether or not the state has title to the money or property, 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:

(i) Provides or has provided any portion of the money or property requested or demanded; or

(ii) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded;

(3) Good or service includes (a) any particular item, device, medical supply, or service claimed to have been provided to a recipient and listed in an itemized claim for payment and (b) any entry in the cost report, books of account, or other documents supporting such good or service;

~~(4) (4) (a) Knowing or and knowingly means that a person, with respect to information:~~

~~(a) (i) Has actual knowledge of such the information;~~

~~(b) (ii) Acts in deliberate ignorance of the truth or falsity of such the information; or~~

~~(c) (iii) Acts in reckless disregard of the truth or falsity of such the information.~~

(b) Acts committed in a knowing manner or committed knowingly shall not require proof of a specific intent to defraud;

(5) Material means having a natural tendency to influence or be capable of influencing the payment or receipt of money or property;

(6) Obligation means an established duty, whether or not fixed, arising from (a) an express or implied contractual, grantor-grantee, or licensor-licensee relationship, (b) a fee-based or similar relationship, (c) statute or rule or regulation, or (d) the retention of any overpayment;

~~(7) (7) Person means any body politic or corporate, society, community, the public generally, individual, partnership, limited liability company, joint-stock company, or association; and~~

~~(8) (8) Recipient means an individual who is eligible to receive goods or services for which payment may be made under the medical assistance program.~~

Sec. 2. Section 68-936, Reissue Revised Statutes of Nebraska, is amended to read:

68-936 (1) A person presents a false medicaid claim and is subject to civil liability if such person:

(a) Knowingly presents, or causes to be presented, ~~to an officer or employee of the state,~~ a false or fraudulent claim for payment or approval;

(b) Knowingly makes, ~~or uses,~~ or causes to be made or used, a false record or statement material to ~~obtain payment or approval by the state of a false or fraudulent claim;~~

(c) Conspires to defraud the state by obtaining payment or approval by the state of a false or fraudulent claim; commit a violation of the False Medicaid Claims Act;

(d) Has possession, custody, or control of property or money used, or ~~that will to be used~~, by the state and, ~~intending to defraud the state or willfully conceal the property~~, ~~delivers~~, or causes to be delivered, ~~less property than the amount for which such person receives a certificate or receipt~~, knowingly delivers, or causes to be delivered, less than all of the money or property;

(e) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and, intending to defraud the state, makes or delivers the receipt knowing that the information on the receipt is not true;

~~(f) Knowingly buys,~~ ~~(e) Buys~~, or receives as a pledge of an obligation or debt, public property from any officer or employee of the state ~~knowing that such officer or employee who may not lawfully sell or pledge such property;~~ or

~~(f) (g) Knowingly makes, uses, or causes to be made or used, a false record or statement with the intent to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state.~~ material to an obligation to pay or transmit money or property to the state or knowingly conceals, avoids, or decreases an obligation to pay or transmit money or property to the state.

(2) A person who presents a false medicaid claim under subsection ~~(1) of this section~~ commits a violation of the False Medicaid Claims Act is subject to, in addition to any other remedies that may be prescribed by law, a civil penalty of not more than ten thousand dollars. In addition to any civil penalty, a any such person who presents a false medicaid claim under subsection (1) of this section may be subject to damages in the amount of three times the amount of the false claim ~~submitted to the state due to the act of such person.~~ because of the act of that person.

(3) If the state is the prevailing party in an action under the False Medicaid Claims Act, the defendant, in addition to penalties and damages, shall pay the state's costs and attorney's fees for the civil action brought to recover penalties or damages under the act.

(4) Liability under this section is joint and several for any act committed by two or more persons.

Sec. 3. Original sections 68-935 and 68-936, Reissue Revised Statutes of Nebraska, are repealed.