

**ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021**  
**COMMITTEE STATEMENT (CORRECTED)**  
**LB437**

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**Hearing Date:** Thursday January 28, 2021  
**Committee On:** Health and Human Services  
**Introducer:** Hansen, B.  
**One Liner:** Change provisions relating to public assistance and medicaid fraud

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 7 Senators Arch, Cavanaugh, M., Day, Hansen, B., Murman, Walz, Williams  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Oral Testimony:**

**Proponents:**

Ben Hansen  
Mark Collins

**Representing:**

Introducer  
Attorney General

**Opponents:**

Spike Eickholt

**Representing:**

American Civil Liberties Union of Nebraska, Nebraska  
Criminal Defense Attorneys Association

**Neutral:**

**Representing:**

**Submitted Written Testimony:**

**Proponents:**

**Opponents:**

James Goddard

**Representing:**

**Representing:**

Nebraska Appleseed

**Neutral:**

**Representing:**

**Summary of purpose and/or changes:**

LB 437 would amend the criminal procedure code as it relates to statutes of limitations and the Medical Assistance Act as it relates to provisions regarding the Medicaid Fraud Control Unit.

The criminal procedure code would be amended to change the amount of a violation of the Medical Assistance Act statute regarding Medicaid fraud from \$500, to more than \$500. The change would apply to offenses prior to the effective date of the bill, provided the statute of limitations has not run. [Section 1, p. 4, line 3; Section 1, p. 6].

LB 437 would also include residents as well as patients who receive medical assistance payments within the jurisdiction of the Medicaid Fraud Control Unit. [Section 2, p. 6; Section 3, p. 7; Section 4, p. 8].

Currently, the records of a non-Medicaid patient receiving services from a provider participating in the medical assistance program cannot be reviewed by the Attorney General without the patients written consent or a court order. LB 437 would make those records available to the Attorney General. [Section 3, p. 7].

LB 437 would also change provisions regarding penalties for Medicaid or economic assistance fraud, or any benefit administered by the Department of Health and Human Services [DHHS]. If the aggregate value of funds or benefits is \$500 or less, the person would be guilty of a Class II misdemeanor. Fraud in the amount of more than \$500, but less than \$1,500 would constitute a Class I misdemeanor. It would also add a higher tier of penalty if the fraud is in an amount of \$5,000 or more; which would constitute a Class IIA felony.

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**Explanation of amendments:**

AM 562 would amend LB 437 by inserting new language. By striking 'person, including vendors and providers' and inserting 'recipient' on page 8, line 16, the amendment specifically enumerates that recipients of medical assistance and social services would commit an offense if they illegally obtain or attempt to obtain assistance, commodities, payments, or benefits to which they are not entitled.

The new subsection [2] would specify that vendors or providers who commit the same acts would be guilty of an offense.

The new language in subsection [3] would state that a recipient of medical assistance or social services would be guilty of a Class IV misdemeanor if the aggregate value is \$500 or less; a Class III misdemeanor if the aggregate value is between \$500 and \$1,500; or a Class IV felony if the aggregate value is above \$1,500. This would mirror what is currently in statute.

Therefore, the enhanced penalties in the new subsection [4], which is subsection [2] in the green copy of the bill, would apply only to vendors and providers of medical assistance and social services.

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John Arch, Chairperson