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**By: Senators Bromwell and Young**

Introduced and read first time: January 31, 1997

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Medical Assistance Program - Fraud**

3 FOR the purpose of establishing criminal penalties for Medicaid health plan fraud and  
4 false statements relating to Medicaid health plans; establishing a certain statute of  
5 limitations for Medicaid health plan fraud and false statements relating to Medicaid  
6 health plans under certain circumstances; defining certain terms; altering a certain  
7 definition; and generally relating to fraud and the Medical Assistance Program.

8 BY repealing and reenacting, without amendments,  
9 Article - Courts and Judicial Proceedings  
10 Section 5-106(a) and (i)  
11 Annotated Code of Maryland  
12 (1995 Replacement Volume and 1996 Supplement)

13 BY adding to  
14 Article - Courts and Judicial Proceedings  
15 Section 5-106(t)  
16 Annotated Code of Maryland  
17 (1995 Replacement Volume and 1996 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article - Health - General  
20 Section 15-123  
21 Annotated Code of Maryland  
22 (1994 Replacement Volume and 1996 Supplement)

23 BY adding to  
24 Article - Health - General  
25 Section 15-123.1  
26 Annotated Code of Maryland  
27 (1994 Replacement Volume and 1996 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
29 MARYLAND, That the Laws of Maryland read as follows:

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1           **Article - Courts and Judicial Proceedings**

2 5-106.

3           (a) Except as provided by this section, a prosecution for a misdemeanor shall be  
4 instituted within one year after the offense was committed.

5           (i) A prosecution for the offense of Medicaid fraud under Article 27, § 230B of  
6 this Code shall be instituted within 3 years after the offense was committed.

7           (T) A PROSECUTION FOR A MEDICAID OFFENSE UNDER § 15-123.1 OF THE  
8 HEALTH - GENERAL ARTICLE SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE  
9 OFFENSE WAS COMMITTED.

10           **Article - Health - General**

11 15-123.

12           (a) (1) (i) In this subsection the following words have the meanings  
13 indicated.

14                               (ii) "Convicted" includes being convicted after a plea of nolo  
15 contendere.

16                               (iii) "Fraud" includes the commission of or an attempt or conspiracy to  
17 commit a crime such as concealment of medical records, embezzlement, false pretenses,  
18 larceny, larceny after trust, Medicaid fraud, MEDICAID HEALTH PLAN FRAUD, FALSE  
19 STATEMENTS RELATING TO MEDICAID HEALTH PLANS, misappropriation by a  
20 fiduciary, or theft.

21                               (iv) "Person" means an individual, partnership, limited partnership, or  
22 corporation, including a professional corporation formed under Title 5, Subtitle 1 of the  
23 Corporations and Associations Article.

24           (2) A person who is convicted of fraud in connection with the Program or a  
25 similar program of any other state is ineligible for further payment under the Program.

26           (b) (1) Any health care provider who is convicted of fraud, or who suffers a  
27 judgment in favor of this State in a civil action based on fraud, in obtaining Medicaid  
28 overpayments is liable to this State for triple the amount of the overpayment.

29           (2) In either a criminal or civil action, the court shall award the appropriate  
30 sum in its sentence or judgment.

31 15-123.1.

32           (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
33 INDICATED.

34           (2) "BODILY INJURY" MEANS:

35                               (I) A CUT, ABRASION, BRUISE, BURN, OR DISFIGUREMENT;

36                               (II) ILLNESS;

3

1 (III) IMPAIRMENT OF THE FUNCTION OF A BODY PART, ORGAN, OR  
2 MENTAL FACULTY;

3 (IV) PHYSICAL PAIN; OR

4 (V) ANY OTHER INJURY TO THE BODY.

5 (3) "FALSE REPRESENTATIONS RELATING TO MEDICAID HEALTH  
6 PLANS" MEANS:

7 (I) KNOWINGLY AND WILLFULLY CONCEALING, FALSIFYING, OR  
8 OMITTING A MATERIAL FACT; OR

9 (II) KNOWINGLY AND WILLFULLY MAKING A MATERIALLY FALSE  
10 OR FRAUDULENT REPRESENTATION OR USING A DOCUMENT THAT CONTAINS A  
11 MATERIALLY FALSE OR FRAUDULENT REPRESENTATION.

12 (4) "MEDICAID HEALTH PLAN" MEANS:

13 (I) A STATE PLAN ESTABLISHED BY TITLE XIX OF THE SOCIAL  
14 SECURITY ACT OF 1939;

15 (II) A PRIVATE HEALTH INSURANCE CARRIER, HEALTH  
16 MAINTENANCE ORGANIZATION, HEALTH CARE COOPERATIVE OR ALLIANCE, OR  
17 OTHER PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH CARE GOODS  
18 OR SERVICES THAT ARE REIMBURSED BY OR ARE A REQUIRED BENEFIT OF A STATE  
19 PLAN ESTABLISHED BY TITLE XIX OF THE SOCIAL SECURITY ACT OF 1939; OR

20 (III) A PERSON THAT PROVIDES, CONTRACTS, OR SUBCONTRACTS  
21 TO PROVIDE HEALTH CARE GOODS OR SERVICES FOR AN ENTITY DESCRIBED IN  
22 SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH.

23 (5) "MEDICAID HEALTH PLAN FRAUD" MEANS:

24 (I) KNOWINGLY DEFRAUDING OR ATTEMPTING TO DEFRAUD A  
25 MEDICAID HEALTH PLAN IN CONNECTION WITH THE DELIVERY OF OR PAYMENT  
26 FOR HEALTH CARE GOODS OR SERVICES; OR

27 (II) KNOWINGLY AND WILLFULLY MAKING A FALSE  
28 REPRESENTATION IN CONNECTION WITH THE DELIVERY OF OR PAYMENT FOR  
29 HEALTH CARE GOODS OR SERVICES THAT, IN WHOLE OR IN PART, ARE  
30 REIMBURSED BY OR ARE A REQUIRED BENEFIT OF A MEDICAID HEALTH PLAN.

31 (6) "REPRESENTATION" INCLUDES AN ACKNOWLEDGMENT,  
32 CERTIFICATION, CLAIM, RATIFICATION, OR REPORT OF DEMOGRAPHIC STATISTICS,  
33 ENCOUNTER DATA, ENROLLMENT CLAIMS, FINANCIAL INFORMATION, HEALTH  
34 CARE SERVICES AVAILABLE OR RENDERED, AND THE QUALIFICATIONS OF A  
35 PERSON THAT IS RENDERING HEALTH CARE OR ANCILLARY SERVICES.

36 (7) "SERIOUS BODILY INJURY" MEANS A BODILY INJURY THAT  
37 INVOLVES:

38 (I) A SUBSTANTIAL RISK OF DEATH;

4

1 (II) EXTREME PHYSICAL PAIN;

2 (III) PROTRACTED AND OBVIOUS DISFIGUREMENT; OR

3 (IV) PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF A  
4 BODY PART, ORGAN, OR MENTAL FACULTY.

5 (B) (1) A PERSON MAY NOT COMMIT MEDICAID HEALTH PLAN FRAUD.

6 (2) IF THE VALUE OF THE MONEY, GOODS, OR SERVICES INVOLVED IS  
7 LESS THAN \$500, A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A  
8 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN  
9 \$50,000 OR IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR BOTH.

10 (3) IF THE VALUE OF THE MONEY, GOODS, OR SERVICES INVOLVED IS  
11 \$500 OR MORE IN THE AGGREGATE, A PERSON WHO VIOLATES THIS SUBSECTION IS  
12 GUILTY OF A FELONY AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE  
13 THAN \$100,000 OR IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BOTH.

14 (C) (1) A PERSON MAY NOT MAKE FALSE STATEMENTS RELATING TO  
15 MEDICAID HEALTH PLANS.

16 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A  
17 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN  
18 \$50,000 OR IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR BOTH.

19 (D) (1) IF A VIOLATION RESULTS IN SERIOUS BODILY INJURY, A PERSON  
20 WHO VIOLATES SUBSECTION (B) OR (C) OF THIS SECTION IS GUILTY OF A FELONY  
21 AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$100,000 OR  
22 IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR BOTH.

23 (2) IF A VIOLATION RESULTS IN DEATH, A PERSON WHO VIOLATES  
24 SUBSECTION (B) OR (C) OF THIS SECTION IS GUILTY OF A FELONY AND, ON  
25 CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$200,000 OR IMPRISONMENT  
26 FOR NOT MORE THAN LIFE OR BOTH.

27 (E) UNLESS A GREATER FINE IS AUTHORIZED UNDER THIS SECTION, A  
28 PERSON WHO VIOLATES SUBSECTION (B) OR (C) OF THIS SECTION IS SUBJECT TO A  
29 FINE OF NOT MORE THAN:

30 (1) \$50,000 FOR EACH MISDEMEANOR; AND

31 (2) \$250,000 FOR EACH FELONY.

32 (F) A PERSON WHO VIOLATES SUBSECTIONS (B) OR (C) OF THIS SECTION  
33 SHALL MAKE FULL RESTITUTION OF THE MONEY, GOODS, SERVICES, OR THE VALUE  
34 OF THE GOODS OR SERVICES UNLAWFULLY RECEIVED.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 October 1, 1997.