

## Article - Health - General

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§2-602.

(a) A person may not:

(1) Knowingly present or cause to be presented a false or fraudulent claim for payment or approval;

(2) Knowingly make, use, or cause to be made or used a false record or statement material to a false or fraudulent claim;

(3) Conspire to commit a violation under this subtitle;

(4) Have possession, custody, or control of money or other property used by or on behalf of the State under a State health plan or a State health program and knowingly deliver or cause to be delivered to the State less than all of that money or other property;

(5) (i) Be authorized to make or deliver a receipt or other document certifying receipt of money or other property used or to be used by the State under a State health plan or a State health program; and

(ii) Intending to defraud the State or the Department, make or deliver a receipt or document knowing that the information contained in the receipt or document is not true;

(6) Knowingly buy or receive as a pledge of an obligation or debt publicly owned property from an officer, employee, or agent of a State health plan or a State health program who lawfully may not sell or pledge the property;

(7) Knowingly make, use, or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or other property to the State;

(8) Knowingly conceal, or knowingly and improperly avoid or decrease, an obligation to pay or transmit money or other property to the State; or

(9) Knowingly make any other false or fraudulent claim against a State health plan or a State health program.

(b) (1) A person who is found to have violated subsection (a) of this section is liable to the State for:

(i) A civil penalty of not more than \$10,000 for each violation of subsection (a) of this section; and

(ii) An additional amount of not more than three times the amount of damages that the State sustains as a result of the acts of that person in violation of subsection (a) of this section.

(2) The total amount owed by a person under paragraph (1) of this subsection may not be less than the amount of the actual damages the State health plan or State health program incurs as a result of the person's violation of subsection (a) of this section.

(c) (1) In determining the appropriate amount of fines and damages under subsection (b) of this section, the court shall consider:

(i) The number, nature, and severity of the violations of this subtitle for which the person has been found liable;

(ii) The number, nature, and severity of any previous violations of this subtitle;

(iii) The degree of loss suffered by the State health plan or State health program;

(iv) The person's history of billing compliance;

(v) Whether the person has a compliance program in place;

(vi) The extent to which the person has taken steps to address and correct the violation since the person became aware of the violation;

(vii) The extent to which the violation caused harm or detriment to patients or consumers of the State health plan or State health program;

(viii) Any funds previously returned to the State health plan or State health program in compliance with federal requirements regarding overpayments, to the extent the funds represented losses to the State health plan or State health program caused by the violation;

(ix) Whether the person self-reported the violation, the timeliness of the self-reporting, the extent to which the person otherwise cooperated in the investigation of the violation, and the extent to which the person had prior knowledge of an investigation or other action relating to the violation; and

(x) Any other factor as justice requires.

(2) In weighing the factors set forth in paragraph (1) of this subsection, the court shall, where appropriate, give special consideration to:

(i) The extent to which the person's size, operations, or financial condition may have affected each of the factors set forth in paragraph (1) of this

subsection; and

(ii) The extent to which the person's size, operations, or financial condition may affect the person's ability to provide care and continue operations after payment of damages and fines.

(d) The penalties provided in subsection (b) of this section are in addition to any criminal, civil, or administrative penalties provided under any other State or federal statute or regulation.

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