

CF 7r2261

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**By: Delegates Guns and McHale**

Introduced and read first time: February 5, 1997

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 1997

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## CHAPTER \_\_\_\_

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~~ representations relating to Medicaid health plans; establishing a  
5 certain statute of limitations for Medicaid health plan fraud and false ~~statements~~  
6 representations relating to Medicaid health plans under certain circumstances;  
7 defining certain terms; altering a certain definition; and generally relating to fraud  
8 and the Medical Assistance Program.

9 BY repealing and reenacting, without amendments,  
10 Article - Courts and Judicial Proceedings  
11 Section 5-106(a) and (i)  
12 Annotated Code of Maryland  
13 (1995 Replacement Volume and 1996 Supplement)

14 BY adding to  
15 Article - Courts and Judicial Proceedings  
16 Section 5-106(t)  
17 Annotated Code of Maryland  
18 (1995 Replacement Volume and 1996 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article - Health - General  
21 Section 15-123  
22 Annotated Code of Maryland  
23 (1994 Replacement Volume and 1996 Supplement)

2

1 BY adding to  
2 Article - Health - General  
3 Section 15-123.1  
4 Annotated Code of Maryland  
5 (1994 Replacement Volume and 1996 Supplement)

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

8 **Article - Courts and Judicial Proceedings**

9 5-106.

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

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

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

17 **Article - Health - General**

18 15-123.

19 (a) (1) (i) In this subsection the following words have the meanings  
20 indicated.

21 (ii) "Convicted" includes being convicted after a plea of nolo  
22 contendere.

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

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

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

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

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

3

1 15-123.1.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (2) "BODILY INJURY" MEANS:

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

6 (II) ILLNESS;

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

9 (IV) PHYSICAL PAIN; OR

10 (V) ANY OTHER INJURY TO THE BODY.

11 ~~(3) "FALSE REPRESENTATIONS RELATING TO MEDICAID HEALTH  
12 PLANS" MEANS:~~

13 ~~(I) KNOWINGLY AND WILLFULLY CONCEALING, FALSIFYING, OR  
14 OMITTING A MATERIAL FACT; OR~~

15 ~~(II) KNOWINGLY AND WILLFULLY MAKING A MATERIALLY FALSE  
16 OR FRAUDULENT REPRESENTATION OR USING A DOCUMENT THAT CONTAINS A  
17 MATERIALLY FALSE OR FRAUDULENT REPRESENTATION.~~

18 ~~(4) "MEDICAID HEALTH PLAN" MEANS:~~

19 ~~(I) A STATE PLAN ESTABLISHED BY TITLE XIX OF THE SOCIAL  
20 SECURITY ACT OF 1939;~~

21 ~~(II) A PRIVATE HEALTH INSURANCE CARRIER, HEALTH  
22 MAINTENANCE ORGANIZATION, HEALTH CARE COOPERATIVE OR ALLIANCE, OR  
23 OTHER PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH CARE GOODS  
24 OR SERVICES THAT ARE REIMBURSED BY OR ARE A REQUIRED BENEFIT OF A STATE  
25 PLAN ESTABLISHED BY TITLE XIX OF THE SOCIAL SECURITY ACT OF 1939; OR~~

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

29 (3) "FALSE REPRESENTATION" MEANS:

30 (I) KNOWINGLY AND WILLFULLY CONCEALING, FALSIFYING, OR  
31 OMITTING A MATERIAL FACT; OR

32 (II) KNOWINGLY AND WILLFULLY MAKING A MATERIALLY FALSE  
33 OR FRAUDULENT STATEMENT OR USING A DOCUMENT THAT CONTAINS A  
34 MATERIALLY FALSE OR FRAUDULENT STATEMENT.

35 (4) "HEALTH CARE SERVICE" MEANS ANY HEALTH OR MEDICAL CARE  
36 PROCEDURE OR SERVICE RENDERED BY A HEALTH CARE PROVIDER THAT:

4

1 (I) PROVIDES TESTING, DIAGNOSIS, OR TREATMENT OF HUMAN  
2 DISEASE OR DYSFUNCTION; OR

3 (II) DISPENSES DRUGS, MEDICAL DEVICES, MEDICAL APPLIANCES,  
4 OR MEDICAL GOODS FOR THE TREATMENT OF HUMAN DISEASE OR DYSFUNCTION.

5 (5) (I) "MEDICAID HEALTH PLAN" MEANS:

6 1. A STATE PLAN ESTABLISHED BY TITLE XIX OF THE  
7 SOCIAL SECURITY ACT; OR

8 2. A PRIVATE HEALTH INSURANCE CARRIER, HEALTH  
9 MAINTENANCE ORGANIZATION, MANAGED CARE ORGANIZATION, AS DEFINED IN §  
10 15-101(E) OF THIS SUBTITLE, HEALTH CARE COOPERATIVE OR ALLIANCE, OR OTHER  
11 PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH CARE SERVICES  
12 THAT, IN WHOLE OR IN PART, ARE REIMBURSED BY OR ARE A REQUIRED BENEFIT  
13 OF A STATE PLAN ESTABLISHED BY TITLE XIX OF THE SOCIAL SECURITY ACT.

14 (II) "MEDICAID HEALTH PLAN" INCLUDES A PERSON THAT  
15 PROVIDES OR CONTRACTS OR SUBCONTRACTS TO PROVIDE HEALTH CARE  
16 SERVICES FOR AN ENTITY DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

17 ~~(5)~~ (6) "MEDICAID HEALTH PLAN FRAUD" MEANS:

18 (I) KNOWINGLY DEFRAUDING OR ATTEMPTING TO DEFRAUD A  
19 MEDICAID HEALTH PLAN IN CONNECTION WITH THE DELIVERY OF OR PAYMENT  
20 FOR HEALTH CARE GOODS OR SERVICES, INCLUDING DEFRAUDING OR  
21 ATTEMPTING TO DEFRAUD A MEDICAID HEALTH PLAN OF THE RIGHT TO HONEST  
22 SERVICES; OR

23 ~~(II) KNOWINGLY AND WILLFULLY MAKING A FALSE~~  
24 ~~REPRESENTATION IN CONNECTION WITH THE DELIVERY OF OR PAYMENT FOR~~  
25 ~~HEALTH CARE GOODS OR SERVICES THAT, IN WHOLE OR IN PART, ARE~~  
26 ~~REIMBURSED BY OR ARE A REQUIRED BENEFIT OF A MEDICAID HEALTH PLAN.~~

27 (II) KNOWINGLY AND WILLFULLY OBTAINING OR ATTEMPTING TO  
28 OBTAIN, BY MEANS OF A FALSE REPRESENTATION, MONEY, PROPERTY, OR ANY  
29 THING OF VALUE IN CONNECTION WITH THE DELIVERY OF OR PAYMENT FOR  
30 HEALTH CARE SERVICES THAT, IN WHOLE OR IN PART, ARE REIMBURSED BY OR  
31 ARE A REQUIRED BENEFIT OF A MEDICAID HEALTH PLAN.

32 ~~(6)~~ (7) "REPRESENTATION" INCLUDES AN ACKNOWLEDGMENT,  
33 CERTIFICATION, CLAIM, RATIFICATION, OR REPORT OF DEMOGRAPHIC STATISTICS,  
34 ENCOUNTER DATA, ENROLLMENT CLAIMS, FINANCIAL INFORMATION, HEALTH  
35 CARE SERVICES AVAILABLE OR RENDERED, AND THE QUALIFICATIONS OF A  
36 PERSON THAT IS RENDERING HEALTH CARE OR ANCILLARY SERVICES.

37 ~~(7)~~ (8) "SERIOUS BODILY INJURY" MEANS A BODILY INJURY THAT  
38 INVOLVES:

39 (I) A SUBSTANTIAL RISK OF DEATH;

40 (II) EXTREME PHYSICAL PAIN;

5

1 (III) PROTRACTED AND OBVIOUS DISFIGUREMENT; OR

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

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

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

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

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

17 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A  
18 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN  
19 \$50,000 OR IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR BOTH.

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

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

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

31 (1) ~~\$50,000~~ \$100,000 FOR EACH MISDEMEANOR; AND

32 (2) \$250,000 FOR EACH FELONY.

33 (F) A PERSON WHO VIOLATES SUBSECTIONS (B) OR (C) OF THIS SECTION  
34 ~~SHALL~~ MAY BE REQUIRED TO MAKE FULL RESTITUTION OF THE MONEY, ~~GOODS,~~  
35 ~~SERVICES~~, OR THE VALUE OF THE ~~GOODS OR SERVICES~~ HEALTH CARE SERVICES  
36 UNLAWFULLY RECEIVED.

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

