

Department of Legislative Services  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**

Senate Bill 317 (Senator Frosh, *et al.*)  
Judicial Proceedings

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**Maryland False Health Claims Act**

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This bill prohibits a person from knowingly making a false health claim against one of the State's Medicaid programs, establishes civil penalties for making a false health claim, and permits a private citizen to file a civil action on behalf of the State against a person who has made a false health claim.

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**Fiscal Summary**

**State Effect:** Assuming that the Attorney General receives fewer than 50 complaints per year stemming from this bill, any additional workload could be handled with existing resources. Any general fund revenues from fines and damages recovered by the Attorney General cannot be accurately estimated at this time. Any such increase is not expected to be significant.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** A "claim" is a request or demand for money or property, made under contract or otherwise. A person who violates the bill's prohibitions is liable for a fine of not more than \$10,000 and either: (1) triple the State's resulting damages; or (2) under specified circumstances, up to double the State's damages. A "State health plan" is the State Medical Assistance Plan or a private health insurer, HMO, managed care organization, or health care cooperative or alliance that provides or contracts to provide

health care services that are wholly or partly reimbursed by or are a required benefit of a health plan established under the federal Social Security Act or by the State.

The bill authorizes a private party to bring an action on behalf of the State, in which the private party may seek any remedy available in common law tort, the penalties listed above, compensatory damages to compensate the State, court costs, and attorney's fees. The bill prohibits retaliatory actions by an employer against an employee for: (1) disclosing the employer's false claim; or (2) objecting or refusing to participate in a practice the employee reasonably believes to be a false claim. Remedies provided under the bill are in addition to any other remedy available under State or federal law.

The statute of limitations on any action brought under the bill is six years from the date of the violation or three years after the date when material facts were known or reasonably should have been known. In any action, the State or the initiating complainant must prove all essential elements of the case by a preponderance of the evidence.

**Current Law:** The Medicaid Fraud Control Unit of the Attorney General's Office investigates and prosecutes provider fraud in State Medicaid programs. In addition to any other penalties provided by law, a health care provider that violates a provision of the State Health Plan Fraud subheading of Article 27 is liable to the State for a civil penalty not more than triple the amount of the overpayment. If the value of the money, goods, or services involved is \$500 or more in the aggregate, a person who violates the Medicaid fraud provisions of current law is guilty of a felony and on conviction is subject to imprisonment not exceeding five years or a fine not exceeding \$100,000 or both.

The federal False Claims Act, 31 U.S.C. § 3729, allows the bringing of a *qui tam* action by a private citizen on behalf of the federal government, seeking remedies for fraudulent claims against the government.

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### **Additional Information**

**Prior Introductions:** A similar bill, SB 175, was introduced in the 2001 session. The bill was passed by the Senate, but was not reported from the House Judiciary or Environmental Matters committees.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene (Medicaid), Department of Budget and Management, Office of the Attorney General, Department of Legislative Services

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