
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1439 Session of
2023

INTRODUCED BY KAUFFMAN, PICKETT, FLICK, MOUL, ZIMMERMAN AND
GILLEN, JUNE 20, 2023

REFERRED TO COMMITTEE ON HUMAN SERVICES, JUNE 20, 2023

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in fraud and abuse
4 control, providing for false or fraudulent Medicaid claims
5 and civil enforcement; and establishing the Medicaid Fraud
6 Control Unit Fund.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
10 as the Human Services Code, is amended by adding a section to
11 read:

12 Section 1419. False or Fraudulent Medicaid Claims and Civil
13 Enforcement.--(a) With respect to false or fraudulent Medicaid
14 claims, a person who commits any of the following acts shall be
15 subject to the damages and civil penalties under subsection (b):

16 (1) Knowingly and with intent to defraud presents or causes
17 to be presented a false or fraudulent claim for payment or
18 approval.

19 (2) Knowingly and with intent to defraud makes, uses or
20 causes to be made or used, a false record or statement material

1 to a false or fraudulent claim.

2 (3) Has possession, custody or control of public property or
3 money used or to be used by the Commonwealth and knowingly
4 delivers or causes to be delivered less than all of the money or
5 property within a reasonable time.

6 (4) Is authorized to make or deliver a document certifying
7 receipt of property used or to be used by the Commonwealth and
8 knowingly and with intent to defraud makes or delivers a receipt
9 that falsely represents the property used or to be used.

10 (5) Knowingly and with intent to defraud buys or receives as
11 a pledge of an obligation or debt property owned by the
12 Commonwealth from any person who lawfully may not sell or pledge
13 the property.

14 (6) Knowingly and with intent to defraud makes, uses or
15 causes to be made or used a false record or statement material
16 to an obligation to pay or transmit money or property to the
17 Commonwealth or knowingly conceals, or knowingly and improperly
18 avoids or decreases, an obligation to pay or transmit money or
19 property to the Commonwealth.

20 (7) Knowingly and with intent to defraud fails to disclose a
21 fact, event or occurrence material to an obligation to pay or
22 transmit money or property to the Commonwealth.

23 (8) Is a beneficiary of an inadvertent submission of a false
24 claim, subsequently discovers the falsity of the claim and, with
25 intent to defraud, fails to disclose the false claim to the
26 Commonwealth within a reasonable time after discovery of the
27 false claim.

28 (9) Conspires to commit a violation of clause (1), (2), (3),
29 (4), (5), (6), (7) or (8).

30 (b) A person who commits an act prohibited in this section

1 shall be liable for:

2 (1) up to three times the amount of damages which the
3 Commonwealth sustains because of the act of that person, taking
4 into account the severity of the violation and level of
5 cooperation by the person; and

6 (2) a civil penalty of up to five thousand dollars (\$5,000)
7 for each violation.

8 (c) The following apply:

9 (1) A civil action under this section may not be brought
10 more than three years after the date on which the violation was
11 committed.

12 (2) In an action brought under this section, the
13 Commonwealth shall be required to prove all essential elements
14 of the cause of action, including damages, by clear and
15 convincing evidence.

16 (3) Notwithstanding any other provision of law, a guilty
17 verdict rendered in a criminal proceeding charging fraud,
18 whether upon a verdict after trial or upon a plea of guilty or
19 nolo contendere, shall estop the defendant from denying the
20 essential elements of the offense in an action which involves
21 the same transaction as in the criminal proceeding and which is
22 brought under this section.

23 (d) The Attorney General and the Inspector General shall
24 have concurrent authority to institute proceedings under this
25 section.

26 (e) The Attorney General or Inspector General may bring a
27 civil action under this section in Commonwealth Court.

28 (f) Notwithstanding any law to the contrary, Commonwealth
29 agencies shall cooperate with the Attorney General or Inspector
30 General in investigations and proceedings relating to false or

1 fraudulent claims under this section.

2 (g) The following apply:

3 (1) The Medicaid Fraud Control Unit Fund is established in
4 the State Treasury.

5 (2) All revenue derived from civil penalties related to
6 Medicaid under this article shall be deposited into the Medicaid
7 Fraud Control Unit Fund.

8 (3) The proceeds in the Medicaid Fraud Control Unit Fund
9 shall be appropriated solely for the purpose of expanding the
10 number of investigators in and capabilities of the Medicaid
11 Fraud Control Unit until the Attorney General certifies to the
12 Governor and General Assembly that the Medicaid Fraud Control
13 Unit is adequately resourced to enforce the laws of this
14 Commonwealth relating to false or fraudulent Medicaid claims.

15 (h) As used in this section, the following words and phrases
16 shall have the meanings given to them in this subsection unless
17 the context clearly indicates otherwise:

18 "Claim" means as follows:

19 (1) A request or demand for money or property, whether under
20 contract or otherwise and regardless of whether the Commonwealth
21 has title to the money or property, which meets any of the
22 following:

23 (i) Is presented to an employee, officer or agent of the
24 Commonwealth.

25 (ii) Is made to a contractor, grantee or other recipient and
26 any portion of the money or property will be spent or used on
27 the Commonwealth's behalf or to advance a program or interest of
28 the Commonwealth, and the Commonwealth:

29 (A) provides or has provided any portion of the money or
30 property requested or demanded; or

1 (B) will reimburse the contractor, grantee or other
2 recipient for any portion of the money or property which is
3 requested or demanded.

4 (2) The term does not include requests or demands for money
5 or property the Commonwealth has paid to an individual as
6 compensation for employment or as an income subsidy with no
7 restrictions on the individual's use of the money or property.

8 (3) To the extent it is not connected to a request or demand
9 for money or property, a filing with a Commonwealth agency under
10 the Commonwealth's insurance laws may not constitute a claim.

11 "Knowingly" means whenever a person, with respect to
12 information, does any of the following:

13 (1) Has actual knowledge of the information and acts in
14 deliberate ignorance of the truth or falsity of the information.

15 (2) Acts in reckless disregard of the truth or falsity of
16 the information.

17 "Material" means a natural tendency to influence, or be
18 capable of influencing, the payment or receipt of money or
19 property, such that the payment or receipt of the money or
20 property would not otherwise be made.

21 "Obligation" means an established duty, whether or not fixed,
22 arising from any of the following:

23 (1) An express or implied contract.

24 (2) A grantor-grantee relationship.

25 (3) A licensor-licensee relationship.

26 (4) A fee-based or similar relationship.

27 (5) A statute or regulation.

28 (6) The retention of an overpayment.

29 Section 2. This act shall take effect in 60 days.