

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative Lynn**

A Bill

ACT 1210 OF 1995
HOUSE BILL 1929

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 20-77-903 CONCERNING THE
9 MEDICAID FRAUD FALSE CLAIMS ACT; TO ALLOW FOR THE
10 COLLECTION OF INVESTIGATION AND OTHER RELATED COSTS OF
11 PURSUING VIOLATIONS; TO PROVIDE FOR JOINT AND SEVERAL
12 CIVIL LIABILITY OF CONTROLLING PERSONS; AND FOR OTHER
13 PURPOSES."

Subtitle

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15 "AN ACT TO AMEND THE MEDICAID FRAUD
16 FALSE CLAIMS ACT TO ALLOW FOR COLLECTION
17 OF EXPENSES AND COSTS AND TO PROVIDE FOR
18 JOINT AND SEVERAL CIVIL LIABILITY OF
19 CONTROLLING PERSONS."

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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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24 SECTION 1. Arkansas Code 20-77-903 is amended to read as follows:

25 "20-77-903. Civil penalties.

26 (a) (1) It shall be unlawful for any person to commit any act proscribed
27 by § 20-77-902, and any person found to have committed any such act or acts
28 shall be deemed liable to the State of Arkansas, through the Attorney General,
29 for full restitution and for a civil penalty of not less than five thousand
30 dollars (\$5,000) and not more than ten thousand dollars (\$10,000) for each
31 violation, plus three (3) times the amount of all payments judicially found to
32 have been fraudulently received from the Arkansas Medicaid Program or its
33 fiscal agents because of the act of that person, except that if the court
34 finds the following:

35 (A) The person committing the violation of this subchapter
36 furnished officials of the Attorney General with all information known to such

1 person about the violation within thirty (30) days after the date on which the
2 defendant first obtained the information;

3 (B) Such person fully cooperated with any Attorney
4 General's investigation of such violation, and at the time the person
5 furnished the Attorney General with the information about the violation, no
6 criminal prosecution, civil action, or administrative action had commenced
7 under this subchapter with respect to the violation and the person did not
8 have actual knowledge of the existence of an investigation into such
9 violation.

10 (2) The court may assess not more than two (2) times the amount
11 of damages which the state sustained because of the act of the person.

12 (b) In addition to any other penalties authorized herein, any person
13 violating this chapter shall also be liable to the State of Arkansas for the
14 Attorney General's reasonable expenses including the cost of investigation,
15 attorney fees, court costs, witness fees, and deposition fees.

16 (c) The entirety of any penalty, less any reward which may be
17 determined by the court pursuant to this subchapter, shall be credited as
18 *special revenues of the State of Arkansas, and deposited into the Arkansas*
19 *Medicaid Trust Fund for the sole use of the Arkansas Medicaid Program.*

20 (d) For actions under this subchapter, the following shall apply:

21 (1) To enable the court to properly fix the amount of
22 restitution, the Attorney General shall, after appropriate investigation,
23 recommend an amount that would make the victim whole with respect to the money
24 fraudulently received from the Arkansas Medicaid Program or its fiscal agents,
25 the expense of investigation, and all other measurable monetary damages
26 directly related to the cause of action;

27 (2) If the defendant disagrees with the recommendation of the
28 Attorney General, he shall be entitled to introduce evidence in mitigation of
29 the amount recommended.

30 (e) For actions under this subchapter, whether tried by the court or
31 the jury, the restitution and penalty shall be fixed by the court."

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34 SECTION 2. All provisions of this act of a general and permanent
35 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas

1 Code Revision Commission shall incorporate the same in the Code.

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3 SECTION 3. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

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9 SECTION 4. All laws and parts of laws in conflict with this act are
10 hereby repealed.

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12 SECTION 5. EMERGENCY. It is found and determined by the General
13 Assembly of the State of Arkansas that the laws of Arkansas need to be
14 strengthened in order to combat fraud in the Arkansas Medicaid program and
15 that this act is necessary to protect the integrity of the Medicaid program.
16 Therefore, an emergency is hereby declared to exist and this act being
17 necessary for the immediate preservation of the public peace, health and
18 safety shall be in full force and effect from and after its passage and
19 approval.

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22 /s/Rep. Lynn

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24 APPROVED: 4-11-95

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As Engrossed: 3/22/95 3/23/95

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