

ARKANSAS SENATE
88th General Assembly - Regular Session, 2011
Amendment Form

Subtitle of Senate Bill No. 838

TO ENACT THE FALSE MEDICAID CLAIMS ACT; TO ENCOURAGE AND ASSIST THE
RECOVERY OF MONEYS FRAUDULENTLY RECEIVED FROM THE MEDICAID
PROGRAM; TO INCREASE THE STATE'S PORTION OF FUNDS RECOVERED; TO
DECLARE AN EMERGENCY.

Amendment No. 3 to Senate Bill No. 838

Amend Senate Bill No. 838 as engrossed, S3/24/11 (version: 3/24/2011 09:41:50 AM)

Delete the title in its entirety and substitute:

“AN ACT TO AMEND THE MEDICAID FRAUD FALSE CLAIMS ACT; TO ENCOURAGE CITIZENS TO FILE LAWSUITS SEEKING RECOVERY OF MONEYS FRAUDULENTLY RECEIVED FROM THE STATE MEDICAID PROGRAM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.”

AND

Delete the subtitle in its entirety and substitute:

“TO AMEND THE MEDICAID FRAUD FALSE CLAIMS ACT; TO ENCOURAGE AND ASSIST THE RECOVERY OF MONEYS FRAUDULENTLY RECEIVED FROM THE STATE MEDICAID PROGRAM; TO DECLARE AN EMERGENCY.”

AND

Delete everything after the enactment clause and substitute the following:

"SECTION 1. Arkansas Code § 20-77-911, concerning rewards paid to persons providing information regarding medicaid fraud, is amended to read as follows:

20-77-911. ~~Reward for the detection and punishment of Persons providing information regarding fraud~~ – Rewards.

(a) The court is authorized to pay a person sums, not exceeding ten percent (10%) of the aggregate penalty recovered, ~~or in any case not more than one hundred thousand dollars (\$100,000)~~, as it may deem just, for information the person may have provided which led to the detecting and bringing to trial and punishment persons guilty of violating the Medicaid fraud laws.



(b) Upon disposition of any civil action relating to violations of this subchapter in which a penalty is recovered, the Attorney General may petition the court on behalf of a person who may have provided information which led to the detecting and bringing to trial and punishment persons guilty of Medicaid fraud to reward the person in an amount commensurate with the quality of information determined by the court to have been provided, in accordance with the requirements of this subchapter.

(c)(1) If the Attorney General elects not to petition the court on behalf of the person, the person may petition the court on his or her own behalf.

(2) Neither the state nor any defendant within the action shall be liable for expenses ~~which~~ that a person incurs in bringing an action under this section.

(d) Employees or fiscal agents charged with the duty of referring or investigating cases of Medicaid fraud who are employed by or who contract with any governmental entity shall not be eligible to receive a reward under this section.

SECTION 2. Arkansas Code § 5-55-113, concerning rewards paid to persons providing information regarding medicaid fraud, is amended to read as follows:

5-55-113. Reward for the detection and punishment of medicaid fraud information.

(a) The court may pay a person such sums, not exceeding ten percent (10%) of the aggregate penalty recovered, ~~or in any case not more than one hundred thousand dollars (\$100,000)~~, as the court may deem just, for information the person may have provided which led to detecting and bringing to trial and punishment a person guilty of violating the medicaid fraud laws.

(b)(1) Upon the disposition of any criminal action relating to a violation of this subchapter in which a penalty is recovered, the Attorney General may petition the court on behalf of a person who may have provided information that led to detecting and bringing to trial and punishment a person guilty of medicaid fraud to award the person in an amount commensurate with the quality and usefulness of the information determined by the court to have been provided, in accordance with the requirements of this subchapter.

(2) If the Attorney General elects not to petition the court on behalf of the person, the person may petition the court on his or her own behalf.

(c) Neither the state nor any defendant within the action is liable for expenses that a person incurs in bringing an action under this section.

(d) An employee or fiscal agents charged with the duty of referring or investigating a case of medicaid fraud who are employed by or contract with any governmental entity are not eligible to receive a reward under this section.

SECTION 3. Arkansas Code Title 20, Chapter 77, Subchapter 9 is amended to add a new section to read as follows:

20-77-912. Relief from retaliatory actions.

(a) An employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee in furtherance of an action under this subchapter or other

efforts to stop one (1) or more violations of this subchapter is entitled to all relief necessary to make the employee whole.

(b) Relief available under this section includes:

(1) Reinstatement with the same seniority status that employee would have had but for the discrimination;

(2) Two (2) times the amount of back pay and interest on the back pay, if applicable; and

(3) Compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

(c) An employee may bring an action in circuit court for the relief provided in this section.

(d) A civil action under this section may not be brought more than three (3) years after the date when the retaliation occurred.

SECTION 4. EMERGENCY CLAUSE.

It is found and determined by the General Assembly of the State of Arkansas that the statutes authorizing procedures for the recovery of false or fraudulent Medicaid claims are in immediate need of this revision to encourage citizens of the state to help recover public funds and Medicaid moneys that have been wrongfully misappropriated and will otherwise be lost forever; and that the provisions of this act are essential to successful operations and activities of the Medicaid Fraud Control Unit of the Attorney General's office and the Department of Human Services. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator J. Hutchinson

DLP/DLP - 03/28/11 07:53

DLP242

Secretary