

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/17/15

A Bill

HOUSE BILL 1936

5 By: Representative Bell
6

For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE REPORTING
9 OF WASTE OR MISUSE OF PUBLIC FUNDS BY ARKANSAS
10 MEDICAID PROVIDERS; AND FOR OTHER PURPOSES.
11

Subtitle

12
13
14 TO AMEND ARKANSAS LAW CONCERNING THE
15 REPORTING OF WASTE OR MISUSE OF PUBLIC
16 FUNDS BY ARKANSAS MEDICAID PROVIDERS
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 *SECTION 1. Arkansas Code Title 20, Chapter 77, Subchapter 25, is*
22 *amended to add an additional section to read as follows:*

23 20-77-2514. Reward to employee of Medicaid provider when communication
24 of abuse, fraud, or waste results in savings of funds.

25 (a) As used in this section:

26 (1) "Adverse action" means to discharge, threaten, or otherwise
27 discriminate or retaliate against an employee in any manner that affects the
28 employee's employment, including compensation, job location, rights,
29 immunities, promotions, or privileges; and

30 (2) "Medicaid provider" means a person, corporation, or other
31 entity that provides is directly reimbursed by Medicaid for services in the
32 Arkansas Medicaid Program.

33 (b) An employee of a Medicaid provider communicating abuse, fraud, or
34 waste by the Medicaid provider employing the employee to the Office of
35 Medicaid Inspector General shall be eligible to receive a reward in an amount
36 equal to ten percent (10%) of any savings in Medicaid funds attributable to



1 the communication as calculated under this section.

2 (c) Except as provided in subsection (g) of this section, upon the
3 resolution of a matter communicated to the Office of Medicaid Inspector
4 General under this section, the Office of Medicaid Inspector General shall
5 provide a written report detailing the content of the communication and the
6 outcome of the communication to the:

7 (1) Employee who made the communication; and

8 (2) Medicaid provider that was the subject of the communication.

9 (d) After receiving a written report under subsection (c) of this
10 section, the Office of Medicaid Inspector General shall:

11 (1) Document the savings in Medicaid funds attributable to the
12 communication made under this section for one (1) full fiscal year, including
13 without limitation recovery of funds from the Medicaid provider occurring in
14 response to the communication; and

15 (2)(A) Within thirty (30) days of the end of the first full
16 fiscal year in which the communication under this section was made, issue a
17 report containing:

18 (i) The total savings in Medicaid funds resulting
19 from the communication under this section for the first full fiscal year in
20 which the communication was made, including without limitation recovery from
21 the Medicaid provider occurring in response to the communication;

22 (ii) The name of the employee who made the
23 communication resulting in the savings of Medicaid funds; and

24 (iii) The amount of the reward for which the
25 employee is eligible. The amount of the reward shall be equal to ten percent
26 (10%) of the total savings in Medicaid funds reported under subdivision
27 (d)(2)(A)(i) of this section. If the Office of Medicaid Inspector General
28 concludes that the employee is not eligible for a reward, it shall state the
29 reasons for that determination in the report.

30 (B) A report under subdivision (d)(2)(A) of this section
31 shall be submitted to the:

32 (i) Performance Evaluation and Expenditure Review
33 Subcommittee of the Legislative Council or, if the General Assembly is in
34 session, the Review/PEER Subcommittee of the Joint Budget Committee;

35 (ii) Employee who made the communication under this
36 section unless the employee has elected to maintain confidentiality under

1 subsection (g) of this section. The report to the employee shall include a
2 notice to the employee of the right to an appeal under subsection (e) of this
3 section; and

4 (iii) Clerk of the Arkansas State Claims Commission.

5 (e)(1) An employee may appeal to the Arkansas State Claims Commission
6 in the same manner for filing a claim under § 19-10-208 if the employee
7 believes that:

8 (A) A report under subdivision (d)(2)(A) of this section
9 does not accurately reflect the savings attributable to the communication
10 under this section; or

11 (B) The Office of Medicaid Inspector General did not
12 accurately assess the determination of a reward under this section, including
13 without limitation denying a reward to the employee.

14 (3)(A) A written request for an appeal under subdivision (e)(1)
15 of this section shall be filed within forty (40) days of the submission of
16 the report under subdivision (d)(2)(A) of this section.

17 (B) An appeal to the commission under subdivision (e)(1)
18 of this section shall follow the rules and procedures of the commission.

19 (4) In an appeal to the commission, an employee shall have the
20 burden of proving by a preponderance of the evidence that the:

21 (A) Amount of savings reported by the Office of Medicaid
22 Inspector General under subdivision (d)(2)(A) of this section does not
23 accurately reflect the savings attributable to the communication under this
24 section; or

25 (B) Office of Medicaid Inspector General did not
26 accurately assess the determination of a reward under this section.

27 (5)(A) The decision of the commission in a matter appealed under
28 this subsection may be appealed only to the Claims Review Subcommittee of the
29 Legislative Council or, if the General Assembly is in session, the Claims
30 Subcommittee of the Joint Budget Committee.

31 (B)(i) Notice of appeal under subdivision (e)(5)(A) of
32 this section shall be filed with the commission within forty (40) days after
33 the commission renders a decision.

34 (ii) The commission, in a timely manner, shall
35 notify the Legislative Council or the Joint Budget Committee and all parties
36 to the matter when a notice of appeal to the Claims Review Subcommittee of

1 the Legislative Council or Claims Subcommittee of the Joint Budget Committee
2 is filed with the commission.

3 (iii) When the commission notifies parties of a
4 decision of the commission, it shall advise the parties of the right of
5 appeal.

6 (f)(1)(A) Except as provided in subdivision (f)(2) of this section,
7 within thirty (30) days of the end of the period for appeal under subdivision
8 (e)(3)(A) of this section or the resolution of an appeal under subsection (e)
9 of this section, whichever is later, the clerk of the commission shall notify
10 the Office of Medicaid Inspector General of a reward to be paid to an
11 employee making a communication under this section.

12 (B) Upon receipt of notification under subdivision (f)(1)
13 of this section, the Office of Medicaid Inspector General shall deliver a
14 check to the clerk of the commission who shall deposit the same as a
15 nonrevenue receipt into the Miscellaneous Revolving Fund from which he or she
16 shall disburse the amount of the reward to the state employee.

17 (2)(A) No reward under this section shall be paid in excess of
18 twelve thousand five hundred dollars (\$12,500).

19 (B) If the amount of a reward is greater than twelve
20 thousand five hundred dollars (\$12,500), the reward shall be referred to the
21 General Assembly for an appropriation to the Office of Medicaid Inspector
22 General.

23 (C) If a reward is appropriated to the Office of Medicaid
24 Inspector General for the benefit of an employee, it shall be paid from the
25 funds available to the Office of Medicaid Inspector General.

26 (g)(1) An employee of a Medicaid provider wishing to maintain
27 confidentiality or who otherwise chooses to forego a reward under this
28 section shall request to the Office of Medicaid Inspector General that the
29 report under subsection (c) of this section not include the employee's name
30 or identifying information.

31 (2) A state employee making a request under subdivision (g)(1)
32 of this section shall not receive a reward under this section.

33 (3) The name and identifying information of an employee who
34 requests confidentiality under subdivision (g)(1) of this section is not
35 disclosable under applicable state or federal law.

36 (h)(1) Except as provided in subdivision (h)(2) of this section, a

1 reward under this section shall not be payable for a communication made by an
2 employee of a Medicaid provider in the normal course of the employee's job
3 duties.

4 (2) If a communication in the normal course of an employee's job
5 duties detailing abuse, fraud, or waste is not acted upon by the Medicaid
6 provider within ninety (90) days, the employee may make a communication under
7 this section to the Office of Medicaid Inspector General and be eligible for
8 a reward under this section.

9 (i) A Medicaid provider shall not take adverse action against an
10 employee because:

11 (1) The employee or a person authorized to act on behalf of the
12 employee communicated abuse, fraud, or waste in good faith to the Office of
13 Medicaid Inspector General in the manner provided by this section; or

14 (2) The employee pursues an appeal under subdivision (e)(1) of
15 this section.

16
17
18 /s/Bell
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36