

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S3/22/99 S4/6/99

A Bill

Act 1544 of 1999
SENATE BILL 656

5 By: Senator Harriman
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For An Act To Be Entitled

9 "AN ACT TO COMBAT AND PREVENT FRAUD AND ABUSE IN
10 MEDICAL ASSISTANCE PROGRAMS; AND FOR OTHER PURPOSES."

Subtitle

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12
13 "PROVIDES FOR IMPOSITION AND ENFORCEMENT
14 OF ADMINISTRATIVE SANCTIONS FOR MED.
15 ASSISTANCE PROGRAM FRAUD AND ABUSE, AND
16 TO PROVIDE FOR PROGRAM EXCLUSION FOR
17 THOSE FOUND TO HAVE ENGAGED IN FRAUD AND
18 ABUSE OF PUBLIC BENEFITS PROGRAMS."

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. SHORT TITLE.

24 This act may be cited as the "Medical Assistance Programs
25 Integrity Law."
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27 SECTION 2. LEGISLATIVE INTENT AND PURPOSE.

28 (a) This act is enacted to combat and prevent fraud and
29 abuse committed by some health care providers participating in the
30 medical assistance programs and by other persons and to negate the
31 adverse effects such activities have on fiscal and programmatic
32 integrity. The administrative sanctions imposed pursuant to this
33 act are intended to be in addition to those provided for in the
34 Medicaid Fraud Act, beginning at Arkansas Code §5-55-101 and Title
35 20, Chapter 77, Subchapter 9 of the Arkansas Code and any
36 proceeding brought hereunder shall not be a bar or defense to

1 actions brought pursuant to these or other acts.

2 (b) The General Assembly intends to provide the Director of
3 the Department of Human Services with the ability, authority, and
4 resources to pursue administrative sanctions and liquidated damages
5 to protect the fiscal and programmatic integrity of the medical
6 assistance programs from health care providers and other persons
7 who engage in fraud, misrepresentation, abuse, or other ill
8 practices, as set forth in this act, to obtain payments to which
9 these health care providers or persons are not entitled.

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11 SECTION 3. DEFINITIONS.

12 As used in this act, the following terms shall have the
13 following meanings:

14 (1) "Administrative Adjudication" means adjudication and the
15 adjudication process contained in the Arkansas Administrative
16 Procedure Act, beginning at Arkansas Code § 25-15-201;

17 (2) "Claim" includes any request or demand, including any
18 and all documents or information required by federal or state law
19 or by rule, made against medical assistance programs funds for
20 payment. A claim may be based on costs or projected costs and
21 includes any entry or omission in a cost report or similar
22 document, book of account, or any other document which supports, or
23 attempts to support, the claim. A claim may be made through
24 electronic means if authorized by the department. Each claim may
25 be treated as a separate claim or several claims may be combined to
26 form one claim;

27 (3) "Department director" or "director" means the Director
28 of the Department of Human Services;

29 (4) "Health care provider" means any person furnishing or
30 claiming to furnish a good, service or supply under the medical
31 assistance programs, any other person defined as a health care
32 provider by federal or state law or rule, and a provider-in-fact;

33 (5) "Medical assistance programs" means the Medical
34 Assistance Program (Title XIX of the Social Security Act), commonly
35 referred to as "Medicaid," and other programs operated by and
36 funded in the Department which provide payment to persons or

1 entities providing any good, service, or supply to a recipient;

2 (6) "Order" means a final order imposed pursuant to an
3 administrative adjudication;

4 (7) "Payment" means the payment to a health care provider
5 from medical assistance programs funds pursuant to a claim, or the
6 attempt to seek payment for a claim;

7 (8) "Recoupment" means recovery through the reduction, in
8 whole or in part, of payment to a health care provider;

9 (9) "Rule" means any rule or regulation promulgated by the
10 Department in accordance with the Arkansas Administrative Procedure
11 Act and any federal rule or regulation promulgated by the federal
12 government in accordance with federal law; and

13 (10) "Withhold payment" means to reduce or adjust the amount,
14 in whole or in part, to be paid to a health care provider for a
15 pending or future claim during the time of a criminal, civil, or
16 departmental investigation or proceeding or claims review of the
17 health care provider.

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19 SECTION 4. CLAIMS REVIEW AND ADMINISTRATIVE SANCTIONS.

20 (a)(1) Pursuant to rules and regulations promulgated in accordance with
21 the Arkansas Administrative Procedure Act, the director shall establish a
22 process to review a claim made by a health care provider to determine if the
23 claim should be or should have been paid as required by federal or state law
24 or rule.

25 (2) Claims review may occur prior to or after payment is made to
26 a health care provider.

27 (3) The director may withhold payment to a health care provider
28 during claims review if necessary to protect the fiscal integrity of the
29 medical assistance programs, provided that the health care provider has an
30 opportunity for a hearing within sixty (60) days of the date payment is
31 withheld.

32 (b)(1) The director may establish various types of administrative
33 sanctions pursuant to rules and regulations promulgated in accordance with the
34 Arkansas Administrative Procedure Act which may be imposed on a health care
35 provider or other person who violates any provision of this act or any other
36 applicable federal or state law or rule related to the medical assistance

1 programs.

2 (2) "Administrative sanction" shall include any or all of the
3 following: recoupment, posting of bond or other security, or a combination
4 thereof; exclusion as a health care provider; or liquidated damages.

5 (c)(1) The department shall conduct a hearing in compliance with the
6 Arkansas Administrative Procedure Act at the request of a person who wishes to
7 contest an administrative sanction imposed on him by the director.

8 (2) A party aggrieved of an order may seek judicial review in
9 accordance with the Arkansas Administrative Procedure Act.

10 (3) Judicial review of the order shall be conducted in compliance
11 with the Arkansas Administrative Procedure Act.

12 (d) All state rules and regulations issued on or before the effective
13 date of this act shall be deemed to have been issued in compliance with the
14 authority of this section.

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16 SECTION 5. SETTLEMENT.

17 The Director may agree to settle an administrative sanction. The terms
18 of the settlement shall be reduced to writing and signed by the parties to the
19 agreement. The terms of the settlement shall be public record. The
20 settlement shall include the method and means of payment for recovery,
21 including but not limited to, adequate security for the full amount of the
22 settlement.

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24 SECTION 6. Arkansas Code 20-77-901(6) and (7) are amended to read as
25 follows:

26 '(6) "Claim" means any written or electronically submitted
27 request or demand for reimbursement made to the Arkansas Medicaid
28 Program by any provider or its fiscal agents for each good or
29 service purported to have been provided to any Medicaid recipient
30 whether or not the State of Arkansas provides any or no portion of
31 the money which is requested or demanded includes any request or
32 demand, including any and all documents or information required by
33 federal or state law or by rule, made against medical assistance
34 programs funds for payment. A claim may be based on costs or
35 projected costs and includes any entry or omission in a cost report
36 or similar document, book of account, or any other document which

1 supports, or attempts to support, the claim. A claim may be made
2 through electronic means if authorized by the department. Each
3 claim may be treated as a separate claim or several claims may be
4 combined to form one claim.

5 (7) "Knowing" or "knowingly" means ~~an act or omission done voluntarily~~
6 ~~and intentionally and not because of mistake or accident or other innocent~~
7 ~~reason~~ that the person has actual knowledge of the information or acts in
8 deliberate ignorance or reckless disregard of the truth of falsity of the
9 information."

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11 SECTION 7. All provisions of this act of a general and permanent nature
12 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
13 Revision Commission shall incorporate the same in the Code.

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15 SECTION 8. If any provision of this act or the application thereof to
16 any person or circumstance is held invalid, such invalidity shall not affect
17 other provisions or applications of the act which can be given effect without
18 the invalid provision or application, and to this end the provisions of this
19 act are declared to be severable.

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

23 /s/ Harri man

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26 APPROVED: 4/15/1999
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