

1 State of Arkansas As Engrossed: S3/15/11 S3/24/11 S3/28/11

2 88th General Assembly

A Bill

3 Regular Session, 2011

SENATE BILL 838

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5 By: Senator J. Hutchinson

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For An Act To Be Entitled

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AN ACT TO AMEND THE MEDICAID FRAUD FALSE CLAIMS ACT;

9

TO ENCOURAGE CITIZENS TO FILE LAWSUITS SEEKING

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RECOVERY OF MONEYS FRAUDULENTLY RECEIVED FROM THE

11

STATE MEDICAID PROGRAM; TO DECLARE AN EMERGENCY; AND

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FOR OTHER PURPOSES.

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Subtitle

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TO AMEND THE MEDICAID FRAUD FALSE CLAIMS

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ACT; TO ENCOURAGE AND ASSIST THE RECOVERY

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OF MONEYS FRAUDULENTLY RECEIVED FROM THE

19

STATE MEDICAID PROGRAM; TO DECLARE AN

20

EMERGENCY.

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

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

28

29 *20-77-911. ~~Reward for the detection and punishment of~~ Persons*
30 *providing information regarding fraud – Rewards.*

31

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



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

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

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

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

18
19 SECTION 2. Arkansas Code § 5-55-113, concerning rewards paid to
20 persons providing information regarding medicaid fraud, is amended to read as
21 follows:

22 5-55-113. Reward for ~~the detection and punishment of medicaid fraud~~
23 information.

24 (a) The court may pay a person such sums, not exceeding ten percent
25 (10%) of the aggregate penalty recovered, ~~or in any case not more than one~~
26 ~~hundred thousand dollars (\$100,000)~~, as the court may deem just, for
27 information the person may have provided which led to detecting and bringing
28 to trial and punishment a person guilty of violating the medicaid fraud laws.

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

36 (2) If the Attorney General elects not to petition the court on

1 *behalf of the person, the person may petition the court on his or her own*
2 *behalf.*

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

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

9

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

12 *20-77-912. Relief from retaliatory actions.*

13 *(a) An employee who is discharged, demoted, suspended, threatened,*
14 *harassed, or in any other manner discriminated against in the terms and*
15 *conditions of employment by his or her employer because of lawful acts done*
16 *by the employee in furtherance of an action under this subchapter or other*
17 *efforts to stop one (1) or more violations of this subchapter is entitled to*
18 *all relief necessary to make the employee whole.*

19 *(b) Relief available under this section includes:*

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

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

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

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

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

31

32 *SECTION 4. EMERGENCY CLAUSE.*

33 *It is found and determined by the General Assembly of the State of*
34 *Arkansas that the statutes authorizing procedures for the recovery of false*
35 *or fraudulent Medicaid claims are in immediate need of this revision to*
36 *encourage citizens of the state to help recover public funds and Medicaid*

1 moneys that have been wrongfully misappropriated and will otherwise be lost
2 forever; and that the provisions of this act are essential to successful
3 operations and activities of the Medicaid Fraud Control Unit of the Attorney
4 General's office and the Department of Human Services. Therefore, an
5 emergency is declared to exist and this act being immediately necessary for
6 the preservation of the public peace, health, and safety shall become
7 effective on:

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

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

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

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15 /s/J. Hutchinson
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