



Policy: False Claims Education

SUBJECT:

Education of State and Federal Laws Prohibiting the Filing of False Claims

PURPOSE:

To provide information to employees, vendors or other subcontractors, and other persons acting on behalf Coventry Health Care, Inc. and its subsidiaries (collectively "Coventry").

POLICY:

As required by the Deficit Reduction Act of 2005, it is Coventry's policy to provide detailed information to Coventry employees, vendors or other subcontractors, and other persons acting on behalf of Coventry, about the Federal False Claims Act, administrative remedies for false claims and statements established under 31 U.S.C. §§ 3801 et seq., and applicable State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws (collectively, "False Claims Acts"). The False Claims Acts assist the Federal and State Governments in preventing and detecting fraud, waste and abuse in Federal health care programs, such as Medicare and Medicaid. Attached to this policy is a summary of the Federal False Claims Act and relevant State False Claims Acts.

Coventry has also implemented policies and programs to prevent and detect fraud waste and abuse. Those policies and programs include the Coventry Code of Business Conduct and Ethics and the Coventry Anti-Fraud and Abuse Plan. These policies and other Coventry policies relating the prevention and detection of fraud, waste and abuse can be found and utilized by Coventry employees on the Coventry Intranet and Essentials, Coventry's Online Reference System. Vendors and other subcontractors will be given a copy of these materials, as relevant and requested.

Issue Date: December 2006, attachment revised June, 2007

FEDERAL	FEDERAL FALSE CLAIMS ACT (31 U.S.C. §§ 3729, et seq.)
Defined Terms	<p>“Claim” means any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.</p> <p>“Knowing” and “Knowingly” mean that a person, with respect to information:</p> <p>(1) has actual knowledge of the information;</p> <p>(2) acts in deliberate ignorance of the truth or falsity of the information; or</p> <p>(3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required (31 U.S.C § 3729)</p>
Unlawful Acts	<p>(1) Knowingly presenting, or causing to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;</p> <p>(2) Knowingly making, using, or causing to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;</p> <p>(3) Conspiring to defraud the Government by getting a false or fraudulent claim allowed or paid;</p> <p>(4) Having possession, custody, or control of property or money used, or to be used, by the Government and, intending to defraud the Government or willfully concealing the property, delivering, or causing to be delivered, less property than the amount for which the person receives a certificate or receipt;</p> <p>(5) Authorizing to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, making or delivering the receipt without completely knowing that the information on the receipt is true;</p> <p>(6) Knowingly buying, or receiving as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property; or</p> <p>(7) Knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government. (31 U.S.C § 3729)</p>
Enforcement & Penalties	<p>Financial Penalties Civil penalty of not less than \$5,000 and not more than \$10,000,</p>

	<p>plus 3 times the amount of damages which the Government sustains because of the act of that person, except that if the court finds that (a) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;(b) such person fully cooperated with any Government investigation of such violation; and (c) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of the person. A person found guilty of the above-listed violations shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages. (31 U.S.C § 3729)</p> <p>Actions by Private Persons. - A person may bring a civil action for a violation as listed above, for the person and for the United States Government. The action shall be brought in the name of the Government. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.</p> <p>Rights of the Parties to Qui Tam Actions. - If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. The Government may dismiss the action, settle the action, or prosecute the action. If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. The Government may elect to pursue its claim through any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. (31 U.S.C § 3730)</p>
<p>Whistleblower Protections</p>	<p>Any 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 on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the</p>

	discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection. (31 U.S.C § 3730(h))
FEDERAL	FALSE STATEMENTS & CLAIMS (31 U.S.C. §§ 3801, et seq.)
DEFINITIONS	<p>“Claim” means any request, demand, or submission (a) made to an authority for property, services, or money (including money representing grants, loans, insurance, or benefits); (b) made to a recipient of property, services, or money from an authority or to a party to a contract with an authority - (i) for property or services if the United States: (I) provided such property or services; (II) provided any portion of the funds for the purchase of such property or services; or (III) will reimburse such recipient or party for the purchase of such property or services; or (ii) for the payment of money (including money representing grants, loans, insurance, or benefits) if the United States - (I) provided any portion of the money requested or demanded; or (II) will reimburse such recipient or party for any portion of the money paid on such request or demand; or (c) made to an authority which has the effect of decreasing an obligation to pay or account for property, services, or money, except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1986.</p> <p>Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim. Each claim for property, services, or money is subject to this chapter regardless of whether such property, services, or money is actually delivered or paid. A claim shall be considered made, presented, or submitted to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority, recipient, or party.</p> <p>“Knows or has reason to know” for purposes of establishing liability under section 3802, means that a person, with respect to a claim or statement- (a) has actual knowledge that the claim or statement is false, fictitious, or fraudulent; (b) acts in deliberate ignorance of the truth or falsity of the claim or statement; or (c) acts in reckless disregard of the truth or falsity of the claim or statement, and no proof of specific intent to defraud is required</p> <p>“Statement” means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made- (a) with respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or (b) with respect to (including relating to eligibility for): (i) a contract with, or a bid or proposal for a contract with; or</p>

	<p>(ii) a grant, loan, or benefit from, an authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit, except that such term does not include any statement made in any return of tax imposed by the Internal Revenue Code of 1986.</p> <p>Each written representation, certification, or affirmation constitutes a separate statement. A statement shall be considered made, presented, or submitted to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority.</p> <p>(31 U.S.C § 3801)</p>
<p>Unlawful Acts</p>	<p><u>False Claims</u> Making, presenting, submitting, or causing to be made, presented, or submitted, a claim that a person knows or has reason to know - (a) is false, fictitious, or fraudulent; (b) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent; (b) includes or is supported by any written statement that - (i) omits a material fact; (ii) is false, fictitious, or fraudulent as a result of such omission; and (iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or (d) is for payment for the provision of property or services which the person has not provided as claimed.</p> <p><u>False Statements</u> Making, presenting, or submitting, or causing to be made, presented, or submitted, a written statement that - (a) the person knows or has reason to know - (i) asserts a material fact which is false, fictitious, or fraudulent; or (ii) (I) omits a material fact; and (II) is false, fictitious, or fraudulent as a result of such omission; (b) in the case of a statement described in clause (ii) of subparagraph (A), is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and (c) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement. (31 U.S.C § 3802)</p>
<p>Penalties</p>	<p><u>False Claims</u> in addition to any other remedy that may be prescribed by law, a civil penalty of not more than \$5,000 for each such claim. Except with respect to claims for which the government has not made payment, such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined</p>

	<p>under this chapter to be in violation of the preceding sentence.</p> <p><u>False Statements</u> In addition to any other remedy that may be prescribed by law, a civil penalty of not more than \$5,000 shall be assessed for each such statement. (31 U.S.C § 3802)</p>
STATE	ALASKA
Defined Terms	<p>"Claim" includes a request for payment for medical assistance services under applicable state or federal law or regulations, whether the request is in an electronic format or paper format or both. (Alaska Stat. § 47.05.290)</p>
Unlawful Acts/Penalties	<p>False Statements or Representations Made by Applicants/Providers for Medicaid Services</p> <p>A person commits the crime of “medical assistance fraud” if the person:</p> <ol style="list-style-type: none"> (1) knowingly submits or authorizes the submission of a claim to a medical assistance agency for property, services, or a benefit with reckless disregard that the claimant is not entitled to the property, services, or benefit; (2) knowingly prepares or assists another person to prepare a claim for submission to a medical assistance agency for property, services, or a benefit with reckless disregard that the claimant is not entitled to the property, services, or benefit; (3) except as otherwise authorized under the medical assistance program, confers, offers to confer, solicits, agrees to accept, or accepts property, services, or a benefit: (A) to refer a medical assistance recipient to a health care provider; or (B) for providing health care to a medical assistance recipient if the property, services, or benefit is in addition to payment by a medical assistance agency. (4) does not produce medical assistance records to a person authorized to request the records; (5) knowingly makes a false entry in or falsely alters a medical assistance record; (6) knowingly destroys, mutilates, suppresses, conceals, removes, or otherwise impairs the verity, legibility, or availability of a medical assistance record knowing that the person lacks the authority to do so; or (7) violates a provision of Alaska Statutes §47.07, 47.08, or a regulations adopted there under. <p><u>Penalties:</u> Medical assistance fraud under this section is</p> <ol style="list-style-type: none"> (1) a class B felony if the portion of the claim or claims submitted in violation of (1) or (2) above, or the value of the property, services, or benefit that is in violation of (3) above, is \$ 25,000 or more;

	<p>(2) a class C felony if the portion of the claim or claims submitted in violation of (1) or (2) above, or the value of the property, services, or benefit that is in violation of (3) above, is \$ 500 or more but less than \$ 25,000;</p> <p>(3) a class A misdemeanor if the portion of the claim or claims submitted in violation of (1) or (2) above, or the value of the property, services, or benefit that is in violation of (3) above, is less than \$ 500.</p> <p>(4) Medical assistance fraud under (4), (5), or (6) above is a class A misdemeanor;</p> <p>(5) Medical assistance fraud under (7) above is a class B misdemeanor. (Alaska Stat. § 47.05.210)</p>
Whistleblower Protections	There are no specific whistleblower protections Alaska's above described laws.
STATE	FLORIDA
Defined Terms	<p>"Claim" includes any request or demand, under a contract or otherwise, for money, property, or services, which is made to any employee, officer, or agent of an agency, or to any contractor, grantee, or other recipient if the agency provides any portion of the money or property requested or demanded, or if the agency will reimburse the contractor, grantee, or other recipient for any portion of the money or property requested or demanded.</p> <p>"Knowing" or "knowingly" means, with respect to information, that a person:</p> <ol style="list-style-type: none"> 1. Has actual knowledge of the information; 2. Acts in deliberate ignorance of the truth or falsity of the information; or 3. Acts in reckless disregard of the truth or falsity of the information. <p>No proof of specific intent to defraud is required. Innocent mistake shall be a defense to an action under this act.</p> <p>(Fla. Stat. §68.082)</p>
Unlawful Acts/Penalties	<p>False Claims Against the State include:</p> <p>(a) Knowingly presenting or causing to be presented to an officer or employee of an agency a false claim for payment or approval;</p> <p>(b) Knowingly making, using, or causing to be made or used a false record or statement to get a false or fraudulent claim paid or approved by an agency;</p> <p>(c) Conspiring to submit a false claim to an agency or to deceive an agency for the purpose of getting a false or fraudulent claim allowed or paid;</p> <p>(d) Having possession, custody, or control of property or money used or to be used by an agency and, intending to deceive the agency or knowingly conceal the property, delivering or causing</p>

- to be delivered less property than the amount for which the person receives a certificate or receipt;
- (e) Authorizing to make or deliver a document certifying receipt of property used or to be used by an agency and, intending to deceive the agency, making or delivering the receipt without knowing that the information on the receipt is true;
- (f) Knowingly buying or receiving, as a pledge of an obligation or a debt, public property from an officer or employee of an agency who may not sell or pledge the property lawfully; or
- (g) Knowingly making, using, or causing to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to an agency,

Penalties for the above violations include a civil penalty of not less than \$ 5,000 and not more than \$ 10,000 and for treble the amount of damages the agency sustains because of the act or omission of that person.

The court may reduce the treble damages authorized under the statute if the court finds one or more of the following specific extenuating circumstances:

- (a) The person committing the violation furnished officials of the agency responsible for investigating false claims violations with all information known to the person about the violation within 30 days after the date on which the person first obtained the information;
- (b) The person fully cooperated with any official investigation of the violation;
- (c) At the time the person furnished the agency with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this section with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation; in which case the court shall award no less than 2 times the amount of damages sustained by the agency because of the act of the person. The court shall set forth in a written order its findings and basis for reducing the treble damages award. **(Fla. Stat. §68.082)**

Civil Actions for False Claims

- (1) The department may diligently investigate a violation under [s. 68.082](#). If the department finds that a person has violated or is violating [s. 68.082](#), the department may bring a civil action under the Florida False Claims Act against the person. The Department of Financial Services may bring a civil action under this section if the action arises from an investigation by that department and the Department of Legal Affairs has not filed an action under this act.
- (2) A person may bring a civil action for a violation of [s. 68.082](#) for the person and for the affected agency. Civil actions

instituted under this act shall be governed by the Florida Rules of Civil Procedure and shall be brought in the name of the State of Florida. Prior to the court unsealing the complaint, the action may be voluntarily dismissed by the person bringing the action only if the department gives written consent to the dismissal and its reasons for such consent.

(3) The complaint shall be identified on its face as a qui tam action and shall be filed in the circuit court of the Second Judicial Circuit, in and for Leon County. Immediately upon the filing of the complaint, a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Attorney General, as head of the department, and on the Chief Financial Officer, as head of the Department of Financial Services, by registered mail, return receipt requested. The department, or the Department of Financial Services under certain circumstances may elect to intervene and proceed with the action, on behalf of the state, within 90 days after it receives both the complaint and the material evidence and information.

(4) If a person brings an action based upon the facts underlying a pending investigation by the Department of Financial Services, the Department of Financial Services, instead of the department, may take over the action on behalf of the state. In order to take over the action, the Department of Financial Services must give the department written notification within 20 days after the action is filed that the Department of Financial Services is conducting an investigation of the facts of the action and that the Department of Financial Services, instead of the department, will take over the action filed. If the Department of Financial Services takes over the action under this subsection, the word "department" as used in this act means the Department of Financial Services, and that department, for purposes of that action, shall have all rights and standing granted the department under this act.

(5) The department may, for good cause shown, request the court to extend the time during which the complaint remains under seal. Any such motion may be supported by affidavits or other submissions in camera. The defendant is not required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant in accordance with law.

(6) Before the expiration of the 90-day period or any extensions obtained, the department shall:

- (a) Proceed with the action, in which case the action is conducted by the department on behalf of the state; or
- (b) Notify the court that it declines to take over the action, in which case the person bringing the action has the right to conduct the action.

(7) When a person files an action under this section, no person other than the department on behalf of the state may intervene or bring an action under this act based on the facts underlying

the pending action. (Fla. Stat. §68.083)

Rights of the Parties in Civil Actions

(1) If the department, on behalf of the state, proceeds with the action, it has the primary responsibility for prosecuting the action, and is not bound by any act of the person bringing the action. The person bringing the action has the right to continue as a party to the action, subject to certain the limitations.

(2) (a) The department may voluntarily dismiss the action notwithstanding the objections of the person initiating the action.

(b) Subject to [s. 17.04](#), nothing in this act shall be construed to limit the authority of the department or the qui tam plaintiff to compromise a claim brought in a complaint filed under this act if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances.

(c) Upon a showing by the department that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the department's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, including, but not limited to:

1. Limiting the number of witnesses the person may call;
2. Limiting the length of the testimony of the person's witnesses;
3. Limiting the person's cross-examination of witnesses; or
4. Otherwise limiting the participation by the person in the litigation.

(d) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(3) If the department elects not to proceed with the action, the person who initiated the action has the right to conduct the action. If the Attorney General, as head of the department, or the Chief Financial Officer, as head of the Department of Financial Services, so requests, it shall be served, at the requesting department's expense, with copies of all pleadings and motions filed in the action and copies of all deposition transcripts. When a person proceeds with the action, the court, without limiting the rights of the person initiating the action, may nevertheless permit the department to intervene and take over the action on behalf of the state at a later date upon showing of good cause.

(4) Whether or not the department proceeds with the action,

upon a showing by the department that certain actions of discovery by the person initiating the action would interfere with an investigation by state government or the prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 90 days. Such a showing shall be conducted in camera. The court may extend the 90-day period upon a further showing in camera by the department that the criminal or civil investigation or proceeding has been pursued with reasonable diligence and any proposed discovery in the civil action will interfere with an ongoing criminal or civil investigation or proceeding.

(5) The application of one civil remedy under this act does not preclude the application of any other remedy, civil or criminal, under this act or any other provision of law. Civil remedies under this act are supplemental, not mutually exclusive. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. As used in this subsection, the term "final" means not subject to judicial review.

(6) The Department of Financial Services, or the department, may intervene on its own behalf as a matter of right.

(Fla. Stat. §68.084)

Awards to Plaintiffs Bringing Action

(1) If the department proceeds with and prevails in an action brought by a person under this act, except as provided in subsection (2), the court shall order the distribution to the person of at least 15 percent but not more than 25 percent of the proceeds recovered under any judgment obtained by the department in an action under [s. 68.082](#) or of the proceeds of any settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action.

(2) If the department proceeds with an action which the court finds to be based primarily on disclosures of specific information, other than that provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing; a legislative, administrative, inspector general, or auditor general report, hearing, audit, or investigation; or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds recovered under a judgment or received in settlement of a claim under this act, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.

(3) If the department does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds recovered under a judgment rendered in an action under this act or in settlement of a claim under this act.

(4) Following any distributions under subsection (1), subsection (2), or subsection (3) above, the agency injured by the submission of a false claim shall be awarded an amount not to exceed its compensatory damages. Any remaining proceeds, including civil penalties awarded under [s. 68.082](#), shall be deposited in the General Revenue Fund.

(5) Any payment under this section to the person bringing the action shall be paid only out of the proceeds recovered from the defendant.

(6) Whether or not the department proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of [s. 68.082](#) upon which the action was brought, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under this section, taking into account the role of the person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of [s. 68.082](#), the person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the department to continue the action. **(Fla. Stat. §68.085)**

Expenses; Attorney's Fees and Costs

(1) If the department initiates an action under this act or assumes control of an action brought by a person under this act, the department shall be awarded its reasonable attorney's fees, expenses, and costs.

(2) If the court awards the person bringing the action proceeds under this act, the person shall also be awarded an amount for reasonable attorney's fees and costs. Payment for reasonable attorney's fees and costs shall be made from the recovered proceeds before the distribution of any award.

(3) If the department does not proceed with an action under this act and the defendant is the prevailing party, the court shall award the defendant reasonable attorney's fees and costs against the person bringing the action.

(4) No liability shall be incurred by the state government, the affected agency, or the department for any expenses, attorney's fees, or other costs incurred by any person in bringing or defending an action under this act. **(Fla. Stat. §68.086)**

Exemptions to Civil Actions

(1) No court shall have jurisdiction over an action brought under this act against a member of the Legislature, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the state government when the action was brought. For purposes of this subsection, the term "senior executive branch official" means any person employed in the executive branch of government

	<p>holding a position in the Senior Management Service as defined in s. 110.402.</p> <p>(2) In no event may a person bring an action under s. 68.083(2) based upon allegations or transactions that are the subject of a civil action or an administrative proceeding in which the agency is already a party.</p> <p>(3) No court shall have jurisdiction over an action brought under this act based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing; in a legislative, administrative, inspector general, or Auditor General, Chief Financial Officer, or Department of Financial Services report, hearing, audit, or investigation; or from the news media, unless the action is brought by the department, or unless the person bringing the action is an original source of the information. For purposes of this subsection, the term "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the department before filing an action under this act based on the information.</p> <p>(4) No court shall have jurisdiction over an action where the person bringing the action under s. 68.083(2) is:</p> <ul style="list-style-type: none"> (a) Acting as an attorney for state government; or (b) An employee or former employee of state government, and the action is based, in whole or in part, upon information obtained in the course or scope of government employment. <p>(5) No court shall have jurisdiction over an action where the person bringing the action under s. 68.083(2) obtained the information from an employee or former employee of state government who was not acting in the course or scope of government employment.</p> <p>(6) No court shall have jurisdiction over an action brought under this act against a local government. For the purposes of this subsection, the term "local government" means any county or municipality. (Fla. Stat. §68.087)</p> <p>Burden of Proof In any action brought under this act, the State of Florida or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence. (Fla. Stat. §68.09)</p>
<p>Whistleblower Protections</p>	<p>Protection for Participating Employees Any 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 on behalf of the employee or others in furtherance of an action under this act, including investigation for initiation of, testimony for, or assistance in an action filed or to be filed under this act, shall have a cause of action under s. 112.3187. (Fla. Stat.</p>

	§68.088)
STATE	IOWA
Defined Terms	No relevant defined terms
Unlawful Acts	<p>False Statements or Representations Made by Applicants/Providers for Medicaid Services <u>Fraudulent practices.</u> A person who obtains assistance or payments for medical assistance under this chapter by knowingly making or causing to be made, a false statement or a misrepresentation of a material fact or by knowingly failing to disclose a material fact required of an applicant for aid under the provisions of this chapter and a person who knowingly makes or causes to be made, a false statement or a misrepresentation of a material fact or knowingly fails to disclose a material fact concerning the applicant's eligibility for aid under this chapter commits a fraudulent practice. (Iowa Code § 249A.7)</p> <p><u>Fraudulent practice.</u> A person who knowingly makes or causes to be made false statements or misrepresentations of material facts or knowingly fails to disclose material facts in application for payment of services or merchandise rendered or purportedly rendered by a provider participating in the medical assistance program under this chapter commits a fraudulent practice. (Iowa Code § 249A.8)</p>
Penalty	<p>Applicants/Providers for Medicaid Services <u>County attorney to enforce.</u> Violations of law relating to the family investment program, medical assistance, and supplemental assistance shall be prosecuted by county attorneys. Area prosecutors of the office of the attorney general shall provide assistance in prosecution as required. (Iowa Code § 249A.14)</p> <p><u>Investigations</u> The department of inspections and appeals shall conduct investigations and audits as deemed necessary to ensure compliance with the medical assistance program administered under this chapter. The department of inspections and appeals shall cooperate with the department of human services on the development of procedures relating to such investigations and audits to ensure compliance with federal and state single state agency requirements. (Iowa Code § 249A.7)</p>
Whistleblower Protections	There are no specific whistleblower protections in Iowa's above described laws.
STATE	KENTUCKY
Defined Terms	"Fraud" means an intentional deception or misrepresentation made by a recipient or a provider with the knowledge that the deception could result in some unauthorized benefit to the

	<p>recipient or provider or to some other person. It includes any act that constitutes fraud under applicable federal or state law.</p> <p>"Intentional" or "intentionally" means, with respect to a result or to conduct described by a statute defining an offense, that a person's conscious objective is to cause that result or to engage in that conduct.</p> <p>"Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware that his conduct is of that nature or that the circumstance exists.</p> <p>"Wantonly" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts wantonly with respect thereto. (KRS § 205.8451)</p>
<p>Unlawful Act/ Penalties</p>	<p>False Statements or Representations Made by Applicants/Providers for Medicaid Services</p> <p>(1) No person shall knowingly or wantonly devise a scheme or plan a scheme or artifice, or enter into an agreement, combination, or conspiracy to obtain or aid another in obtaining payments from any medical assistance program under this chapter by means of any fictitious, false, or fraudulent application, claim, report, or document submitted to the Cabinet for Health and Family Services, or intentionally engage in conduct which advances the scheme or artifice.</p> <p>(2) No person shall intentionally, knowingly, or wantonly make, present, or cause to be made or presented to an employee or officer of the Cabinet for Health and Family Services any false, fictitious, or fraudulent statement, representation, or entry in any application, claim, report, or document used in determining rights to any benefit or payment.</p> <p>(3) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled-nursing facility, intermediate-care facility, home-health agency, or other provider of services to the Medical Assistance Program.</p> <p>(4) No person shall, in any matter within the jurisdiction of the Cabinet for Health and Family Services under this chapter, knowingly falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or</p>

document knowing the same to contain any false, fictitious, or fraudulent statement or entry.

Penalties: Any person who violates subsections (1) and (2) above shall be guilty of a Class A misdemeanor unless the sum total of benefits or payments claimed in any application, claim, report, or document, or in any combination or aggregation thereof, is valued at three hundred dollars (\$300) or more in which case it shall be a Class D felony. Any person who violates subsection (3) above shall be guilty of a Class C felony. Any person who violates subsection (4) above shall be guilty of a Class D felony. **(KRS § 205.8463)**

Unlawful Referral Practices of Provider

(1) Except as otherwise provided in KRS 205.510 to 205.630, no provider shall knowingly solicit, receive, or offer any remuneration (including any kickback, bribe, or rebate) for furnishing medical assistance benefits or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made pursuant to Title XIX of the Social Security Act.

(2) (a) No provider shall knowingly make, offer, or receive a payment, a rebate of a fee, or a charge for referring a recipient to another provider for furnishing of benefits. (b) Any conduct or activity which does not violate or which is protected under the provisions of 42 U.S.C. sec. 1395nn or 42 U.S.C. sec. 1320A-7b(b), as amended, or federal regulations promulgated under those statutes, shall not be deemed to violate the provisions of KRS 205.8451 to 205.8483, and the conduct or activity shall be accorded the same protections allowed under federal law and regulation.

Penalties: Any person who violates subsection (1) or (2) above shall be guilty of a Class A misdemeanor unless the combination or aggregation of offenses is valued at three hundred dollars (\$300) or more, in which case it shall be a Class D felony. In addition to any other penalty authorized by law, any person who violates the provisions of subsection (2)(a) above shall not be entitled to bill or collect from the recipient or any third-party payor and shall repay any payments due the Commonwealth for services provided which were related to the referral. **(KRS § 205.8461)**

Any provider who has been found by a preponderance of the evidence in an administrative process, in conformity with any applicable federal regulations and with due process protections, to have knowingly submitted or caused claims to be submitted for payment for furnishing treatment, services, or goods under a medical assistance program provided under this chapter, which payment the provider was not entitled to receive by reason of a violation, shall:

(a) Be liable for restitution of any payments received in violation of this chapter, and interest at the maximum legal rate pursuant

	<p>to KRS § 360.010 in effect on the date any payment was made, for the period from the date payment was made to the date of repayment to the Commonwealth;</p> <p>(b) Be liable for a civil payment in an amount up to three (3) times the amount of excess payments;</p> <p>(c) Be liable for payment of a civil payment of five hundred dollars (\$500) for each false or fraudulent claim submitted for providing treatment, services, or goods;</p> <p>(d) Be liable for payment of legal fees and costs of investigation and enforcement of civil payments; and</p> <p>(e) Be removed as a participating provider in the Medical Assistance Program for two (2) months to six (6) months for a first offense, for six (6) months to one (1) year for a second offense, and for one (1) year to five (5) years for a third offense.</p> <p>Civil payments, interest, costs of investigation, and enforcement of the civil remedies recovered on behalf of the Commonwealth under this section shall be remitted to the State Treasurer for deposit in a Medicaid trust fund which is hereby created and shall not lapse. Funds deposited in the Medicaid trust fund shall not be spent until appropriated by the General Assembly for medical assistance services.</p> <p>The remedies under this section are separate from and cumulative to any other administrative, civil, or criminal remedies available under federal or state law or regulation.</p> <p>(KRS § 205.8467)</p> <p>Commonwealth shall have a lien against all property of any provider or recipient who is found to have defrauded the Medicaid program for an amount equal to the sum defrauded plus any interest and penalties levied under KRS 205.8451 to 205.8483. The lien shall attach to all property and rights to property owned by the provider or recipient and all property subsequently acquired after a finding of fraud by the Cabinet for Health and Family Services. (KRS § 205.8471)</p>
<p>Whistleblower Protections</p>	<p>Reporting Requirements and Prohibition against Employer Discrimination or Retaliation</p> <p>Any person who knows or has reasonable cause to believe that a violation of this chapter has been or is being committed by any person, corporation, or entity, shall report or cause to be reported to the state Medicaid Fraud Control Unit, or the Medicaid Fraud and Abuse hotline, the following information, if known:</p> <p>(a) The name and address of the offender;</p> <p>(b) The offender's place of employment;</p> <p>(c) The nature and extent of the violation;</p> <p>(d) The identity of the complainant; and</p> <p>(e) Any other information that the receiving person reasonably believes might be helpful in investigation of the alleged fraud,</p>

	<p>abuse, or misappropriation.</p> <p>The identity of any person making a report under this section shall be considered confidential by the receiving party. Any person making a report under this section regarding the offenses of another shall not be liable in any civil or criminal action based on the report if it was made in good faith.</p> <p>No employer shall, without just cause, discharge or in any manner discriminate or retaliate against any person who in good faith makes a report required or permitted by KRS §§205.8451 through 205.8483, testifies, or is about to testify, in any proceeding with regard to any report or investigation. Any individual injured by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations, and to recover the actual damages sustained, together with the costs of the lawsuit, including a reasonable fee for the individual's attorney of record. No employee of the state Medicaid Fraud Control Unit, the Office of the Attorney General, the Office of the Inspector General, or the Cabinet for Health and Family Services shall notify the alleged offender of the identity of the person who in good faith makes a report required or permitted KRS §§205.8451 through 205.8483 nor shall the employee notify the alleged offender that a report has been made alleging a violation of KRS §§205.8451 through 205.8483 until such time as civil or criminal proceedings have been initiated or a formal investigation has been initiated. Any information or report concerning an alleged offender shall be considered confidential in accordance with the Kentucky Open Records Law. (KRS § 205.8465)</p>
--	---

STATE	MARYLAND
Definitions	<p>“False Representation” means the knowing and willful:</p> <ul style="list-style-type: none"> a) concealing, falsifying or omitting of a material fact; b) making of a materially false or fraudulent statement; or c) use of a document that contains a statement of material fact that the user knows to be false or fraudulent. <p>“Health Care Service” means health or medical care procedures, goods or services that:</p> <ul style="list-style-type: none"> a) provide testing, diagnosis or treatment of human disease or dysfunction; or b) dispense drugs, medical appliances or medical goods for the treatment of human disease or dysfunction. <p>Health care service includes any procedure, goods or service that is a required benefit of a State health plan.</p> <p>(Md. Criminal Law Code Ann. § 8-508)</p> <p>"Medicaid Fraud" means:</p> <p>(1) Knowingly and willfully making or causing to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan</p>

	<p>established by Title XIX of the Social Security Act of 1939;</p> <p>(2) Knowingly and willfully making or causing to be made any false statement or representation of a material fact for use in determining rights to those benefits or payments;</p> <p>(3) Having knowledge of the occurrence of any event affecting:</p> <p>(a) The initial or continued right to those benefits or payments, or</p> <p>(b) The initial or continued right to those benefits or payments to any other individual in whose behalf an application has been made or in whose behalf benefits or payments are being received, and concealing or failing to disclose that event with an intent to secure fraudulently those benefits or payments either in a greater amount or quantity than is due or when benefits or payments are not authorized;</p> <p>(4) Having made application to receive or having received any of those benefits or payments for the use and benefit of another, and knowingly and willfully converting any part of the benefit or payment to a use other than for the use and benefit of that other person;</p> <p>(5) Fraudulently obtaining, attempting to obtain, or aiding another person in obtaining or attempting to obtain any drug product or any medical care, the benefit or payment of any part of which is or may be made from federal or state funds under a state Medical Assistance program, by use of:</p> <p>(a) Fraud, deceit, misrepresentation, or subterfuge,</p> <p>(b) Forgery or alteration of a Medical Assistance prescription, or</p> <p>(c) Concealment of any material fact or by the use of false names or addresses. (COMAR 10.09.24.14)</p> <p>“State health plan” means</p> <p>(1) the State Medical Assistance Plan established in accordance with Title XIX of the federal Social Security Act of 1939;</p> <p>(2) a medical assistance plan established by the State; or</p> <p>(3) a private health insurance carrier, health maintenance organization, managed care organization, health care cooperative or alliance, or other person that provides or contracts to provide health care services that are wholly or partly reimbursed by or are a required benefit of a health plan established in accordance with Title XIX of the federal Social Security Act of 1939 or by the State.</p> <p>(4) a person that provides or contracts or subcontracts to provide health care services for an entity described in (1) through (3) above.</p>
Unlawful Acts	<p>False Statements or Representations Made by Applicants/Providers for Medicaid Services</p> <p><u>Defrauding State Health Plan</u></p> <p>A person may not:</p> <p>(a) knowingly and willfully defraud a state health plan in</p>

	<p>connection with the delivery of or payment for a health care service;</p> <p>(b) knowingly and willfully obtain by means of a false representation, money, property or any thing of value in connection with the delivery of, or payment for a health care service that wholly or partly is reimbursed by, or is required by, a state health plan;</p> <p>(c) knowingly and willfully defraud or attempt to defraud a State health plan of the right to honest services; or</p> <p>(d) with the intent to defraud make a false representation relating to a health care service or a state health plan.</p> <p>(e) (who has applied for or received a benefit or payment under a State health plan for the use of another individual) knowingly and willfully convert all or any part of a State health plan benefit or payment to a use that is not for the authorized beneficiary. (Md. Criminal Law Code Ann. § 8-509)</p> <p><u>Bribe, Kickback, or Referral Rebate</u></p> <p>A person may not (i) provide to another individual items or services for which payment wholly or partly is or may be made from federal or State funds under a State health plan or solicit, offer, make; (ii) receive a kickback or bribe in connection with providing those items or services or making or receiving a benefit or payment under a State health plan or (iii) solicit, offer, make, or receive a rebate of a fee or charge for referring another individual to a third person to provide items or services for which payment wholly or partly is or may be made from federal or State funds under a State health plan. (Md. Criminal Law Code Ann. § 8-511 & 8-512)</p> <p><u>Qualification for Benefits</u></p> <p>A person may not knowingly and willfully make, cause to be made, induce, or attempt to induce the making of a false representation with respect to the conditions or operation of a facility, institution, or State health plan in order to help the facility, institution, or State health plan qualify to receive reimbursement under a State health plan. (Md. Criminal Law Code Ann. § 8-513)</p> <p><u>Obtaining Benefit by Fraud</u></p> <p>A person may not knowingly and willfully obtain, attempt to obtain, or aid another individual in obtaining or attempting to obtain a drug product or medical care, the payment of all or a part of which is or may be made from federal or State funds under a State health plan, by:</p> <p>(1) fraud, deceit, false representation, or concealment;</p> <p>(2) counterfeiting or alteration of a medical assistance prescription or a pharmacy assistance prescription distributed under a State health plan;</p> <p>(3) concealment of a material fact; or</p> <p>(4) using a false name or a false address. (Md. Criminal Law</p>
--	--

	<p>Code Ann. § 8-514)</p> <p><u>Unauthorized Possession of a Benefit Card</u></p> <p>A person may not knowingly and willfully possess a medical assistance card or a pharmacy assistance card distributed under a State health plan or the Medical Assistance or Pharmacy Assistance Program without the authorization of the person to whom the card is issued.</p> <p>(Md. Criminal Law Code Ann. § 8-515)</p>
Penalties	<p>Applicants/Providers for Medicaid Services</p> <p>A person convicted of the crime of Medicaid fraud is subject to the following penalties:</p> <p><u>Criminal Penalty</u></p> <p>If the value of the money, health care services, or other goods or services involved is \$ 500 or more in the aggregate, a person who violates a provision of this part is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$ 100,000 or both.</p> <p>A person who violates any other provision of this part is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$ 50,000 or both.</p> <p>A Business Entity, which includes an association, firm, institution, partnership, or corporation, that violates a provision of this part is subject to a fine not exceeding \$ 250,000 for each felony; and \$ 100,000 for each misdemeanor.</p> <p>(Md. Criminal Law Code Ann. § 8-516)</p> <p><u>Civil Penalty</u></p> <p>A health care provider who violates a provision of this part is liable to the State for a civil penalty not more than three times the amount of the overpayment.</p> <p>(Md. Criminal Law Code Ann. § 8-517)</p>
Whistleblower Protections	<p>There are no specific whistleblower protections in Maryland's above described laws.</p>
STATE	MICHIGAN
Defined Terms	<p>“Claim” means any attempt to cause the Department of Social Services to pay out sums of money under the Michigan Social Welfare Act (Act No. 280 of the Public Acts of 1939, codified at Sections 400.1 to 400.121 of the Michigan Compiled Laws).</p> <p>“Deceptive” means making a claim or causing a claim to be made under Michigan Social Welfare Act, which contains a statement of fact or which fails to reveal a material fact, which statement or failure leads the Department of Social Services to believe the represented or suggested state of affair to be other than it actually is.</p> <p>“False” means wholly or partially untrue or deceptive.</p> <p>“Knowing” and “knowingly” means that a person is in</p>

	<p>possession of facts under which he or she is aware or should be aware of the nature of his or her conduct and that his or her conduct is substantially certain to cause the payment of a Medicaid benefit. Knowing or knowingly does not include conduct which is an error or mistake unless the person's course of conduct indicates a systematic or persistent tendency to cause inaccuracies to be present. (MCLS § 400.602)</p>
<p>Unlawful Acts/ Penalties</p>	<p>False Statement or Representation in Application For Benefits</p> <p>(1) A person shall not knowingly make or cause to be made a false statement or false representation of a material fact in an application for Medicaid benefits.</p> <p>(2) A person shall not knowingly make or cause to be made a false statement or false representation of a material fact for use in determining rights to a Medicaid benefit.</p> <p>(3) A person, who having knowledge of the occurrence of an event affecting his initial or continued right to receive a Medicaid benefit or the initial or continued right of any other person on whose behalf he has applied for or is receiving a benefit, shall not conceal or fail to disclose that event with intent to obtain a benefit to which the person or any other person is not entitled or in an amount greater than that to which the person or any other person is entitled.</p> <p><u>Penalty:</u> A person who violates this section is guilty of a felony, punishable by imprisonment of not more than 4 years, or a fine of not more than \$50,000, or both. (MCLS § 400.603)</p> <p>False Statement or Representation as to Conditions or Operation of Institution or Facility; Violation; Felony, Penalty.</p> <p>Sec. 5. (1) A person shall not knowingly and willfully make, or induce or seek to induce the making of, a false statement or false representation of a material fact with respect to the conditions or operation of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, or home health agency.</p> <p>(2) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than \$30,000.00, or both.</p> <p>(MCLS § 400.605)</p> <p>Agreement, Combination or Conspiracy to Defraud the State</p> <p>A person shall not enter into an agreement, combination, or conspiracy to defraud the state by obtaining or aiding another to obtain the payment or allowance of a false claim under the Michigan Social Welfare Act.</p> <p><u>Penalty:</u> A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 10 years, or by a</p>

fine of not more than \$50,000.00, or both. **(MCLS § 400.606)**

Knowing Presentation of False Claim

(1) A person shall not make or present or cause to be made or presented to an employee or officer of this state a claim under the Michigan Social Welfare Act, upon or against the state, knowing the claim to be false.

(2) A person shall not make or present or cause to be made or presented a claim under the Michigan Social Welfare Act, which he or she knows falsely represents that the goods or services for which the claim is made were medically necessary in accordance with professionally accepted standards. Each claim violating this subsection shall constitute a separate offense. A health facility or agency shall not be liable under this subsection unless the health facility or agency, pursuant to a conspiracy, combination, or collusion with a physician or other provider, falsely represents the medical necessity of the particular goods or services for which the claim was made.

Penalty: A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than \$50,000.00, or both. **(MCLS § 400.607)**

Prosecutions; Knowledge of Similar Acts, Actual Notice of Occurrence of Acts; Lack of Necessity to Show; Rebuttable Presumption of Person's Knowledge of Claim; Signature on Form; Submission by Computer; Creation of Rebuttable Presumption; Authenticity of Official Certificate.

Sec. 8. (1) In a prosecution under this act, it shall not be necessary to show that the person had knowledge of similar acts having been performed in the past by a person acting on his or her behalf, nor to show that the person had actual notice that the acts by the persons acting on his or her behalf occurred to establish the fact that a false statement or representation was knowingly made.

(2) It shall be a rebuttable presumption that a person knowingly made a claim for a Medicaid benefit if the person's actual, facsimile, stamped, typewritten, or similar signature is used on the form required for the making of a claim for a Medicaid benefit.

(3) If a claim for a Medicaid benefit is made by means of computer billing tapes or other electronic means, it shall be a rebuttable presumption that the person knowingly made the claim if the person has notified the department of social services in writing that claims for Medicaid benefits will be submitted by use of computer billing tapes or other electronic means.

(4) In any civil or criminal action under this act, the official certificate of the director of social services or the director's delegate setting forth that documentary material or any compilation of documentary material is an authentic record or a compilation of the records of the medical assistance program under the social welfare act, Act No. 280 of the Public Acts of 1939, being [sections 400.1 to 400.121 of the Michigan](#)

[Compiled Laws](#), shall create a rebuttable presumption that the record or compilation is authentic. **(MCLS § 400.608)**

Person Convicted 3 or More Times, Conviction of Another Offense; Punishment, Manner of Imposition; Conviction of Separate Offenses; Consecutive Sentences.

Sec. 9. (1) A person who is convicted 3 or more times for an offense under this act and who is subsequently convicted of another offense under this act may be sentenced to imprisonment for a term of not more than 10 years. To be subject to punishment under this section, it is not necessary to establish that the person was indicted and convicted as a previous offender, but the increased punishment provided in this section shall be imposed in accordance with the procedure prescribed in section 13 of chapter 9 of Act No. 175 of the Public Acts of 1927, as amended, being [section 769.13 of the Michigan Compiled Laws](#).

2) Sentences imposed for a conviction of separate offenses under this act may run consecutively. **(MCLS § 400.609)**

Attorney General's Investigatory Powers; Appointment of Investigators; Powers; Ratification of Earlier Appointments; Service Upon Person to Appear, Produce Relevant Information or Documents; Contents of Demand; Failure to Comply with Demand; Filing of Action to Enforce Demand; Notice; Court's Finding; Motion to Protect Person; Confidentiality of Procedure, Testimony or Material; Waiver by Person Under Investigation.

Sec. 10. (1) The attorney general or an assistant attorney general on behalf of the attorney general may conduct an investigation of an alleged violation of this act.

(2) For purposes of enforcing this act, the attorney general may appoint investigators who shall be peace officers and whose powers shall include, but not be limited to, the following:

(a) The power to execute and serve search warrants, arrest warrants, subpoenas, administrative warrants, and summonses issued under the authority of the state.

(b) The power to seize property pursuant to the laws of this state.

(c) Investigators appointed by the attorney general may exercise the powers provided in this subsection when working in conjunction with local law enforcement agencies or the department of state police.

(3) All appointments of attorney general investigators by the attorney general on and after January 1, 1979 as peace officers are hereby ratified.

(4) If the attorney general has reasonable cause to believe that a person has information or is in possession, custody, or control of any document or other tangible object relevant to an investigation for violation of this act, the attorney general may serve upon the person, before bringing any action, a written demand to appear and be examined under oath, and to produce

	<p>the document or object for inspection and copying. The demand shall include all of the following:</p> <p>(a) Be served upon the person in the manner required for service of process in this state.</p> <p>(b) Describe the nature of the conduct constituting the violation under investigation.</p> <p>(c) Describe the document or object with sufficient definiteness to permit it to be fairly identified.</p> <p>(d) Contain a copy of any written interrogatories.</p> <p>(e) Prescribe a reasonable time at which the person must appear to testify, within which to answer the written interrogatories, and within which the document or object must be produced, and advise the person that objections to or reasons for not complying with the demand may be filed with the attorney general, on or before that time.</p> <p>(f) Specify a place for the taking of testimony or for production and designate the person who shall be custodian of the document or object.</p> <p>(g) Contain a copy of subsection (5).</p> <p>(5) If a person objects to or otherwise fails to comply with the written demand served upon him or her under subsection (4), the attorney general may file in the circuit court of the county in which the person resides or in which the person maintains a principal place of business within this state an action to enforce the demand. Notice of hearing the action and a copy of all pleadings shall be served upon the person, who may appear in opposition. If the court finds that the demand is proper, that there is reasonable cause to believe that there may have been or is presently occurring a violation of this act, and that the information sought or document or object demanded is relevant to the investigation, the court shall order the person to comply with the demand, subject to modification the court may prescribe. Upon motion by the person and for good cause shown, the court may make any further order in the proceedings that justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, or expense.</p> <p>(6) Except as required by federal law, any procedure, testimony taken, or material produced shall be kept confidential by the attorney general before bringing an action against a person under this act for the violation under investigation, unless confidentiality is waived by the person being investigated and the person who has testified, answered interrogatories, or produced material, or disclosure is authorized by the court.</p> <p>(MCLS § 400.610)</p> <p>Civil Action in Name of State; Initiation; Complaint; Intervention; Pleadings; Discovery; Stay; Alternative Remedy; Award; Share of Proceeds; Court Finding of Frivolous Claim; Civil Fine.</p> <p>Sec. 10a. (1) Any person may bring a civil action in the name of this state under this section to recover losses that this state</p>
--	---

	<p>suffers from a violation of this act. A suit filed under this section shall not be dismissed unless the attorney general has been notified and had an opportunity to appear and oppose the dismissal. The attorney general waives the opportunity to oppose the dismissal if it is not exercised within 28 days of receiving notice.</p> <p>(2) If a person other than the attorney general initiates an action under this section, the complaint shall remain under seal and the clerk shall not issue the summons for service on the defendant until after the time for the attorney general's election under subsection (3) expires. At the time of filing the complaint, the person shall serve a copy of the complaint on the attorney general and shall disclose, in writing, substantially all material evidence and information in the person's possession supporting the complaint to the attorney general.</p> <p>(3) The attorney general may elect to intervene in an action under this section. Before the expiration of the later of 90 days after service of the complaint and related materials or any extension of the 90 days that is requested by the attorney general and granted by the court, the attorney general shall notify the court and the person initiating the action of 1 of the following:</p> <p>(a) That the attorney general will proceed with the action for this state and have primary responsibility for proceeding with the action.</p> <p>(b) That the attorney general declines to take over the action and the person initiating the action has the right to proceed with the action.</p> <p>(4) If an action is filed under this section, a person other than the attorney general shall not intervene in the action or bring another action on behalf of this state based on the facts underlying the action.</p> <p>(5) If the attorney general elects to proceed with the action under subsection (3) or (6), the attorney general has primary responsibility for prosecuting the action and may do all of the following:</p> <p>(a) Agree to dismiss the action, notwithstanding the objection of the person initiating the action, but only if that person has been notified of and offered the opportunity to participate in a hearing on the motion to dismiss.</p> <p>(b) Settle the action, notwithstanding the objection of the person initiating the action, but only if that person has been notified of and offered the opportunity to participate in a hearing on the settlement and if the court determines that the settlement is fair, adequate, and reasonable under the circumstances. Upon a showing of good cause, the settlement hearing may be held in camera.</p> <p>(c) Request the court to limit the participation of the person initiating the action. If the attorney general demonstrates that unrestricted participation by the person initiating the action during the litigation would interfere with or unduly delay the</p>
--	--

	<p>attorney general's prosecution of the case or would be repetitious, irrelevant, or unduly harassing, the court may do any of the following:</p> <ul style="list-style-type: none">(i) Limit the number of the person's witnesses.(ii) Limit the length of the testimony of the person's witnesses.(iii) Limit the person's cross-examination of witnesses.(iv) Otherwise limit the person's participation in the litigation. <p>(6) If the attorney general notifies the court that he or she declines to take over the action under subsection (3), the person who initiated the action may proceed with the action. At the attorney general's request and expense, the attorney general shall be provided with copies of all pleadings filed in the action and copies of all deposition transcripts. Notwithstanding the attorney general's election not to take over the action, the court may permit the attorney general to intervene in the action at any time upon a showing of good cause and, subject to subsection (7), without affecting the rights or status of the person initiating the action.</p> <p>(7) Upon a showing, conducted in camera, that actions of the person initiating the action during discovery would interfere with the attorney general's investigation or prosecution of a criminal or civil matter, the court may stay the discovery for not more than 90 days. The court may extend the stay upon a further showing that the attorney general is pursuing the investigation or proceeding with reasonable diligence and the discovery would interfere with the ongoing investigation or proceeding.</p> <p>(8) As an alternative to an action permitted under this section, the attorney general may pursue a violation of this act through any alternate remedy available to this state, including an administrative proceeding. If the attorney general pursues an alternate remedy, a person who initiated an action under this section shall have equivalent rights in that proceeding to the rights that the person would have had if the action had continued under this section to the extent consistent with the law governing that proceeding. Findings of fact and conclusions of law that become final in an alternative proceeding shall be conclusive on the parties to an action under this section. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if the time for filing an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.</p> <p>(9) Subject to subsections (10) and (11), if a person other than the attorney general prevails in an action that the person initiates under this section, the court shall award the person necessary expenses, costs, reasonable attorney fees, and, based on the amount of effort involved, the following percentage of the monetary proceeds resulting from the action or any settlement of the claim:</p> <ul style="list-style-type: none">(a) If the attorney general intervenes, 15% to 25%.(b) If the attorney general does not intervene, 25% to 30%.
--	--

(10) If the court finds an action under this section to be based primarily on disclosure of specific information that was not provided by the person bringing the action, such as information from a criminal, civil, or administrative hearing in a state or federal department or agency, a legislative report, hearing, audit, or investigation, or the news media, and the attorney general proceeds with the action, the court shall award the person bringing the action no more than 10% of the monetary recovery in addition to reasonable attorney fees, necessary expenses, and costs.

(11) If the court finds that the person bringing an action under this section planned, initiated, or participated in the conduct upon which the action is brought, then the court may reduce or eliminate, as it considers appropriate, the share of the proceeds of the action that the person would otherwise be entitled to receive. A person who is convicted of criminal conduct arising from a violation of this act shall not initiate or remain a party to an action under this section and is not entitled to share in the monetary proceeds resulting from the action or any settlement under this section.

(12) A person other than the attorney general shall not bring an action under this section that is based on allegations or transactions that are already the subject of a civil suit, a criminal investigation or prosecution, or an administrative investigation or proceeding to which this state or the federal government is already a party. The court shall dismiss an action brought in violation of this section.

(13) Unless the person is the original source of the information, a person, other than the attorney general, shall not initiate an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a state or federal legislative, investigative, or administrative report, hearing, audit, or investigation, or from the news media. The person is the original source if he or she had direct and independent knowledge of the information on which the allegations are based and voluntarily provided the information to the attorney general before filing an action based on that information under this section.

(14) This state and the attorney general are not liable for any expenses, costs, or attorney fees that a person incurs in bringing an action under this section. Any amount awarded to a person initiating an action to enforce this act is payable solely from the proceeds of the action or settlement.

(15) If a person proceeds with an action under this section after being notified that the attorney general has declined to intervene and the court finds that the claim was frivolous, as defined in section 2591 of the revised judicature act of 1961, 1961 PA 236, [MCL 600.2591](#), the court shall award the prevailing defendant actual and reasonable attorney fees and expenses and, in addition, shall impose a civil fine of not more than \$10,000.00. The civil fine shall be deposited into the Michigan Medicaid benefits trust fund established in section 5 of the Michigan trust

fund act, 2000 PA 489, [MCL 12.255](#). (MCLS § 400.610a)

Recovery of Costs by Attorney General.

Sec. 10b. (1) The attorney general may recover all costs this state incurs in the litigation and recovery of Medicaid restitution under this act, including the cost of investigation and attorney fees. The attorney general shall retain the amount received for activities under this act, excluding amounts for restitution, court costs, and fines, not to exceed the amount of this state's funding match for the Medicaid fraud control unit.

(2) The attorney general shall not retain amounts under this section until all the restitution awarded in the proceeding has been paid.

(3) Costs that the attorney general recovers in excess of the state's funding match for the Medicaid fraud control unit shall be deposited in the Michigan Medicaid benefits trust fund established in section 5 of the Michigan trust fund act, 2000 PA 489, [MCL 12.255](#). (MCLS § 400.610b)

Filing and Prosecution of Action; Jurisdiction; Service of Process.

Sec. 11. (1) Except as provided in subsection (2), an action brought in connection with a Medicaid matter under this act shall be filed in Ingham county and may be prosecuted to final judgment in satisfaction there.

(2) A person may bring a civil action under section 10a in any county in which venue is proper. If the attorney general elects to intervene under section 10a(3) or (6) and the court grants the request, upon motion by the attorney general, the court shall transfer the action to the circuit court in Ingham county.

(3) Process issued by a court in which an action is filed may be served anywhere in the state. (MCLS § 400.611)

Forfeiture of Benefits

A person who receives a benefit which the person is not entitled to receive by reason of fraud or making a fraudulent statement or knowingly concealing a material fact shall forfeit and pay to the state a civil penalty equal to the full amount received plus triple the amount of damages suffered by the state as a result of the conduct by the person. A criminal action need not be brought against the person for that person to be civilly liable under this section. (MCLS § 400.612)

Residential Health Care Facilities; Revocation of License for Violation of Act; Receiver, Petition by Attorney General for Appointment; Order to Show Cause; Return Date; Appointment of Receiver; Compensation; Powers and Duties of Receiver.

Sec. 13. (1) As a means of protecting the health, safety, and welfare of patients in a residential health care facility, including hospitals, nursing homes, and other institutions reimbursed for resident or patient care by the medical assistance program established by Act No. 280 of the Public Acts of 1939, as amended, if the license of a residential health care facility is

	<p>revoked for violation of this act, the attorney general may file a petition with the circuit court for the county of Ingham or the circuit court in the county in which the residential health care facility is located for the appointment of a receiver.</p> <p>(2) The circuit court shall issue an order to show cause why a receiver should not be appointed returnable within 5 days after the filing of the petition.</p> <p>(3) If the court finds that the facts warrant the granting of the petition, the court shall appoint a receiver to take charge of the residential health care facility. The court may determine fair compensation for the receiver.</p> <p>(4) A receiver appointed pursuant to this section shall have the powers and duties prescribed by the court not inconsistent with section 2926 of Act No. 236 of the Public Acts of 1961, being section 600.2926 of the Michigan Compiled Laws. The receiver may correct an act prohibited by this act or required under Act No. 280 of the Public Acts of 1939, as amended. (MCLS § 400.613)</p> <p>Kickbacks, Bribes, Rebates of Fees, or Charges for Referrals</p> <p>Solicitation, offers, or receipt of a kickback or bribe in connection with the furnishing of goods or services for which payment is or may be made in whole or in part pursuant to a program established under the Michigan Social Welfare Act, as amended; payment or receipt of payment; or receipt of a rebate of a fee or charge for referring an individual to another person for the furnishing of the goods and services is prohibited.</p> <p><u>Penalty.</u> Guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than \$30,000.00, or both. (MCLS § 400.604)</p>
<p>Whistleblower Protections</p>	<p>An employer shall not discharge, demote, suspend, threaten, harass, or otherwise discriminate against an employee in the terms and conditions of employment because the employee initiates, assists in, or participates in a proceeding or court action related to the above-listed violations or because the employee cooperates with or assists in an investigation of the above-listed violations, under the Michigan Social Welfare Act.</p> <p>This prohibition does not apply to an employment action against an employee who the court finds (a) brought a frivolous claim (see MCLS § 600.2591); (b) to have planned, initiated, or participated in the conduct upon which the action is brought; or (c) is convicted of criminal conduct arising from a violation of the Michigan Social Welfare Act.</p> <p>An employer wrongfully discriminates as described above is liable to the employee for all of the following:(a) Reinstatement to the employee's position without loss of seniority.(b) Two times the amount of lost back pay.</p> <p>(c)Interest on the back pay.</p> <p>(d) Compensation for any special damages.</p>

	(e) Any other relief necessary to make the employee whole. (MCLS § 400.610c)
STATE	MISSOURI
Defined Terms	<p>“Adequate Documentation” means documentation from which services rendered and the amount of reimbursement received by a provider can be readily discerned and verified with reasonable certainty. Adequate medical records are records which are of the type and in a form from which symptoms, conditions, diagnosis, treatments, prognosis and the identity of the patient to which these things relate can be readily discerned and verified with reasonable certainty. All documentation must be made available at the same site at which the service was rendered. An adequate and complete patient record is a record which is legible, which is made contemporaneously with the delivery of the service, which addresses the patient/client specifics, which include, at a minimum, individualized statements that support the assessment or treatment encounter, and shall include documentation set forth by regulations.</p> <p>“Claim” A claim is each individual line item of service on a claim form, for which a charge is billed by a provider, for all claim form types except inpatient hospital. An inpatient hospital service claim is all the billed charges contained on one (1) inpatient claim document.</p> <p>“Provider” Any person having an effective, valid and current written provider agreement with the Medicaid agency for the purpose of providing services to eligible recipients and obtaining reimbursement excluding, for the purposes of this rule only, all persons receiving reimbursement in their capacity as owners or operators of a <i>licensed</i> nursing home. (13 CSR 70-3.100)</p>
Unlawful Acts/ Penalties	<p>False Statements or Representations Made by Providers of Medicaid Services</p> <p>(1) Presenting, or causing to be presented, for payment any false or fraudulent claim for services or merchandise in the course of business related to Medicaid;</p> <p>(2) Submitting, or causing to be submitted, false information for the purpose of obtaining greater compensation than that to which the provider is entitled under applicable Medicaid program policies or rules, including, but not limited to, the billing or coding of services which results in payments in excess of the fee schedule for the service actually provided or billing or coding of services which results in payments in excess of the provider's charges to the general public for the same services or billing for higher level of service or increased number of units from those actually ordered or performed or both, or altering or falsifying medical records to obtain or verify a greater payment than authorized by a fee schedule or reimbursement plan;</p> <p>(3) Submitting, or causing to be submitted, false information for the purpose of meeting prior authorization requirements or for the purpose of obtaining payments in order to avoid the effect of</p>

	<p>those changes;</p> <p>(4) Utilizing or abusing the Medicaid program as evidenced by a documented pattern of inducing, furnishing or otherwise causing a recipient to receive services or merchandise not otherwise required or requested by the recipient, attending physician or appropriate utilization review team; a documented pattern of performing and billing tests, examinations, patient visits, surgeries, drugs or merchandise that exceed limits or frequencies determined by the department for like practitioners for which there is no demonstrable need, or for which the provider has created the need through ineffective services or merchandise previously rendered;</p> <p>(5) Using fraudulent billing practices arising from billings to third parties for costs of services or merchandise or for negligent practice resulting in death or injury or substandard care to persons including, but not limited to, the provider's patients;</p> <p>(6) Billing the Medicaid program more than once for the same service when the billings were not caused by the single state agency or its agents;</p> <p>(7) Billing the state Medicaid program for services not provided prior to the date of billing (prebilling), except in the case of prepaid health plans or pharmacy claims submitted by point-of-service technology; whether or not the prebilling causes loss or harm to the Medicaid program;</p> <p>(8) Failing to reverse or credit back to the medical assistance program (Medicaid) within thirty (30) days any pharmacy claims submitted to the agency that represent products or services not received by the recipient; for example, prescriptions that were returned to stock because they were not picked up.</p> <p>(9) Submitting claims for services not personally rendered by the individually enrolled provider, except for the provisions specified in the Missouri Medicaid dental, physician, or nurse midwife programs where such claims may be submitted only if the individually enrolled provider directly supervised the person who actually performed the service and the person was employed by the enrolled provider at the time the service was rendered. All claims for psychiatric, psychological counseling, speech therapy, physical therapy, and occupational therapy services may only be billed by the individually enrolled provider who actually performs the service, as supervision is non-covered for these services. Services performed by a non-enrolled person due to Medicaid sanction, whether or not the person was under supervision of the enrolled provider, is a non-covered service;</p> <p>(10) Billing for services through an agent, which were upgraded from those actually ordered, performed; or billing or coding services, either directly or through an agent, in a manner that services are paid for as separate procedures when, in fact, the services were performed concurrently or sequentially and should have been billed or coded as integral components of a total service as prescribed in Medicaid policy for payment in a</p>
--	---

	<p>total payment less than the aggregate of the improperly separated services; or billing a higher level of service than is documented in the patient/client record; or unbundling procedure codes;</p> <p>(11) Submitting improper or false claims to the state or its fiscal agent by an agent or employee of the provider.</p> <p>(12) Billing for the same service as another provider when the service is performed or attended by more than one (1) enrolled provider. Missouri Medicaid will reimburse only one (1) provider for the exact same service.</p> <p>(13) Engaging in conduct or performing an act deemed improper or abusive of the Medicaid program or continuing the conduct following notification that the conduct should cease. This will include inappropriate or improper actions relating to the management of recipients' personal funds or other funds;</p> <p>(14) Breaching of the terms of the Medicaid provider agreement of any current written and published policies and procedures of the Medicaid program or failing to comply with the terms of the provider certification on the Medicaid claim form;</p> <p>(15) Rebating or accepting a fee or portion of a fee or charge for a Medicaid patient referral; or collecting a portion of the service fee from the recipient, except this shall not apply to Title XIX services for which recipients are responsible for payment of a copayment or coinsurance in accordance with 13 CSR 70-4.051 and 13 CSR 70-55.010;</p> <p>(16) Violating any provision of the State Medical Assistance Act or any corresponding rule;</p> <p>(17) Failing to make available, and disclosing to the Medicaid agency or its authorized agents, all records relating to services provided to Medicaid recipients or records relating to Medicaid payments, whether or not the records are commingled with non-Title XIX (Medicaid) records. All records must be kept a minimum of five (5) years from the date of service unless a more specific provider regulation applies. The minimum five (5)-year retention of records requirement continues to apply in the event of a change of ownership or discontinuing enrollment in Medicaid. Services billed to the Medicaid agency that are not adequately documented in the patient's medical records or for which there is no record that services were performed shall be considered a violation of this section. Copies of records must be provided upon request of the Medicaid agency or its authorized agents, regardless of the media in which they are kept. Failure to make these records available on a timely basis at the same site at which the services were rendered or at the provider's address of record with the Medicaid agency, or failure to provide copies as requested, or failure to keep and make available adequate records which adequately document the services and payments shall constitute a violation of this section and shall be a reason for sanction. Failure to send records, which have been requested via mail, within the specified time frame shall constitute a violation of this section and shall be a reason for</p>
--	---

	<p>sanction;</p> <p>(18) Engaging in conduct or performing an act deemed improper or abusive of the Medicaid program or continuing the conduct following notification that the conduct should cease. This will include inappropriate or improper actions relating to the management of recipients' personal funds or other funds;</p> <p>(19) Violating any laws, regulations or code of ethics governing the conduct of occupations or professions or regulated industries. In addition to all other laws which would commonly be understood to govern or regulate the conduct of occupations, professions or regulated industries, this provision shall include any violations of the civil or criminal laws of the United States, of Missouri or any other state or territory, where the violation is reasonably related to the provider's qualifications, functions or duties in any licensed or regulated profession or where an element of the violation is fraud, dishonesty, moral turpitude or an act of violence;</p> <p>(20) Failing to meet standards required by state or federal law for participation (for example licensure);</p> <p>(21) Exclusion from the Medicare program or any other federal health care program;</p> <p>(22) Failing to accept Medicaid payment as payment in full for covered services or collecting additional payment from a recipient or responsible person, except this shall not apply to Title XIX services for which recipients are responsible for payment of a copayment or coinsurance in accordance with 13 CSR 70-4.051 and 70-55.010;</p> <p>(23) Refusing to execute a new provider agreement when requested to do so by the single state agency in order to preserve the single state agency's compliance with federal and state requirements; or failure to execute an agreement within twenty (20) days for compliance purposes;</p> <p>(24) Failing to correct deficiencies in provider operations within ten (10) days or date specified after receiving written notice of these deficiencies from the single state agency or within the time frame provided from any other agency having licensing or certification authority;</p> <p>(25) Being formally reprimanded or censured by a board of licensure or an association of the provider's peers for unethical, unlawful or unprofessional conduct; any termination, removal, suspension, revocation, denial, probation, consented surrender or other disqualification of all or part of any license, permit, certificate or registration related to the provider's business or profession in Missouri or any other state or territory of the United States;</p> <p>(26) Being suspended or terminated from participation in another governmental medical program such as Workers' Compensation, Crippled Children's Services, Rehabilitation Services, Title XX Social Service Block Grant or Medicare;</p> <p>(27) Failing to repay or make arrangements for the repayment of</p>
--	--

	<p>identified overpayments or otherwise erroneous payments prior to the allowed forty-five (45) days which the provider has to refund the requested amount;</p> <p>(28) Making any payment to any person in return for referring an individual to the provider for the delivery of any goods or services for which payment may be made in whole or in part under Medicaid. Soliciting or receiving any payment from any person in return for referring an individual to another supplier of goods or services regardless of whether the supplier is a Medicaid provider for the delivery of any goods or services for which payment may be made in whole or in part under Medicaid is also prohibited. Payment includes, without limitation, any kickback, bribe or rebate made, either directly or indirectly, in cash or in-kind;</p> <p>(29) Conducting civil or criminal fraud against the Missouri Medicaid program or any other state Medicaid (medical assistance) program, or any criminal fraud related to the conduct of the provider's profession or business;</p> <p>(30) Having sanctions or any other adverse action invoked by another state Medicaid program;</p> <p>(31) Failing to take reasonable measures to review claims for payment for accuracy, duplication or other errors caused or committed by employees when the failure allows material errors in billing to occur. This includes failure to review remittance advice statements provided which results in payments which do not correspond with the actual services rendered;</p> <p>(32) For providers other than long-term care facilities, failing to retain in legible form for at least five (5) years from the date of service, worksheets, financial records, appointment books, appointment calendars (for those providers who schedule patient/client appointments), adequate documentation of the service, and other documents and records verifying data transmitted to a billing intermediary, whether the intermediary is owned by the provider or not. For long-term care providers, failing to retain in legible form, for at least seven (7) years from the date of service, worksheets, financial records, adequate documentation for the service(s), and other documents and records verifying data transmitted to a billing intermediary, whether the intermediary is owned by the provider or not. The documentation must be maintained so as to protect it from damage or loss by fire, water, computer failure, theft, or any other cause;</p> <p>(33) Removing or coercing from the possession or control of a recipient any item of durable medical equipment which has reached Medicaid-defined purchase price through Medicaid rental payments or otherwise become the property of the recipient without paying fair market value to the recipient;</p> <p>(34) Failing to timely submit civil rights compliance data or information or failure to timely take corrective action for civil rights compliance deficiencies within thirty (30) days after notification of these deficiencies or failure to cooperate or supply</p>
--	--

	<p>information required or requested by civil rights compliance officers of the single state agency;</p> <p>(35) Failure to comply with the provisions of the Missouri Department of Social Services, Division of Medical Services Title XIX Participation Agreement with the provider relating to health care services;</p> <p>(36) Failure to maintain documentation which is to be made contemporaneously to the date of service;</p> <p>(37) Failure to maintain records for services provided and all billing done under his/her provider number regardless to whom the reimbursement is paid and regardless of whom in his/her employ or service produced or submitted the Medicaid claim or both;</p> <p>(38) Failure to submit proper diagnosis codes, procedure codes, billing codes regardless to whom the reimbursement is paid and regardless of whom in his/her employ or service produced or submitted the Medicaid claim. (13 CSR 70-3.030)</p> <p><u>Penalties For the Above-Listed Unlawful Acts</u></p> <p>(a) Failure to respond to notice of overpayments or notice of deficiencies in provider operations within the specified forty-five (45)-day time limit shall be considered cause to withhold future provider payments until the situation in question is resolved;</p> <p>(b) Termination from participation in the Medicaid program for a period of not less than sixty (60) days nor more than ten (10) years;</p> <p>(c) Suspension of participation in the Medicaid program for a specified period of time;</p> <p>(d) Suspension or withholding of payments to a provider;</p> <p>(e) Referral to peer review committees including PSROs or utilization review committees;</p> <p>(f) Recoupment from future provider payments;</p> <p>(g) Transfer to a closed-end provider agreement not to exceed twelve (12) months or the shortening of an already existing closed-end provider agreement;</p> <p>(h) Attendance at provider education sessions;</p> <p>(i) Prior authorization of services;</p> <p>(j) One hundred percent (100%) review of the provider's claims prior to payment;</p> <p>(k) Referral to the state licensing board for investigation;</p> <p>(l) Referral to appropriate federal or state legal agency for investigation, prosecution, or both, under applicable federal and state laws;</p> <p>(m) Retroactive denial of payments; and</p> <p>(n) Denial of payment for any new admission to a skilled nursing facility (SNF), intermediate care facility (ICF) or ICF/mentally retarded (MR) that no longer meets the applicable conditions of</p>
--	---

	<p>participation (for SNFs) or standards (for ICFs and ICF/MRs) if the facility's deficiencies do not pose immediate jeopardy to patients' health and safety. Imposition of this sanction must be in accordance with all applicable federal statutes and regulations. (13 CSR 70-3.030)</p>
Whistleblower Protections	<p>There are no specific whistleblower protections in Missouri's above described laws.</p>
STATE	NEVADA
Defined Terms	<p>"Claim" means a request or demand for money, property or services made to:</p> <p>(1) An officer, employee or agent of this state or of a political subdivision of this state; or</p> <p>(2) A contractor, grantee or other recipient of money from the state or a political subdivision of this state if any part of the money, property or services requested or demanded was provided by the state or political subdivision.</p> <p>(Nev. Rev. Stat. § 357.020)</p> <p>"Political Subdivision" Defined.</p> <p>"Political subdivision" means a county, city, assessment district or any other local government as defined in NRS 354.474.</p> <p>(Nev. Rev. Stat. § 357.020)</p>
Unlawful Acts/ Penalties	<p>False Statements or Representations Made by Applicants/Providers for Medicaid Services</p> <p><u>Liability for damages and civil penalty for certain acts.</u></p> <p>Except as otherwise provided in NRS § 357.050, a person who, with or without specific intent to defraud, does any of the following listed acts is liable to the state or a political subdivision, whichever is affected, for three times the amount of damages sustained by the state or political subdivision because of the act of that person, for the costs of a civil action brought to recover those damages and for a civil penalty of not less than \$2,000 or more than \$10,000 for each act:</p> <p>(a) Knowingly presents or causes to be presented a false claim for payment or approval.</p> <p>(b) Knowingly makes or uses, or causes to be made or used, a false record or statement to obtain payment or approval of a false claim.</p> <p>(c) Conspires to defraud by obtaining allowance or payment of a false claim.</p> <p>(d) Has possession, custody or control of public property or money and knowingly delivers or causes to be delivered to the state or a political subdivision less money or property than the amount for which he receives a receipt.</p> <p>(e) Is authorized to prepare or deliver a receipt for money or property to be used by the state or a political subdivision and knowingly prepares or delivers a receipt that falsely represents the money or property.</p>

(f) Knowingly buys, or receives as security for an obligation, public property from a person who is not authorized to sell or pledge the property.

(g) Knowingly makes or uses, or causes to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state or a political subdivision.

(h) Is a beneficiary of an inadvertent submission of a false claim and, after discovering the falsity of the claim, fails to disclose the falsity to the state or political subdivision within a reasonable time.

As used in this section, a person acts "knowingly" with respect to information if he:

- (a) Has knowledge of the information;
- (b) Acts in deliberate ignorance of whether the information is true or false; or
- (c) Acts in reckless disregard of the truth or falsity of the information. **(Nev. Rev. Stat. § 357.040)**

Limitations of Penalty

In a civil action, the court may give judgment for not less than twice or more than three times the amount of damages sustained, and no civil penalty, if it finds that:

- (1) The person against whom the judgment is entered:
 - (a) Furnished all information known to him concerning the act, within 30 days after becoming aware of the information, to the attorney general; and
 - (b) Fully cooperated with any investigation of the act by the state or political subdivision; and
- (2) At the time the information was furnished, no criminal prosecution or civil or administrative proceeding had commenced with respect to the act and the person had no knowledge of the existence of any investigation with respect to the act. **(Nev. Rev. Stat. § 357.050)**

Joint and Several Liability.

Liability pursuant to this chapter is joint and several for an act done by two or more persons. **(Nev. Rev. Stat. § 357.060)**

Investigation and Action by Attorney General.

The attorney general may investigate any alleged liability pursuant to this chapter and may bring a civil action pursuant to this chapter against the person liable. **(Nev. Rev. Stat. § 357.070)**

Maintenance of Action by Private Plaintiff; Limitations; Complaint Under Seal; Copy of Complaint and Written Disclosure of Evidence to be Sent to Attorney General.

1. Except as otherwise provided in this section and [NRS 357.090](#); and 357.100, a private plaintiff may maintain an action pursuant to this chapter on his own account and that of the state if money, property or services provided by the state are involved, or on his own account and that of a political

subdivision if money, property or services provided by the political subdivision are involved, or on his own account and that of both the state and a political subdivision if both are involved. After such an action is commenced, it may be dismissed only with leave of the court, taking into account the public purposes of this chapter and the best interests of the parties.

2. If a private plaintiff brings an action pursuant to this chapter, no other person may bring another action pursuant to this chapter based on the same facts.

3. An action may not be maintained by a private plaintiff pursuant to this chapter:

(a) Against a member of the legislature or the judiciary, an elected officer of the executive department of the state government, or a member of the governing body of a political subdivision, if the action is based upon evidence or information known to the state or political subdivision at the time the action was brought.

(b) If the action is based upon allegations or transactions that are the subject of a civil action or an administrative proceeding for a monetary penalty to which the state or political subdivision is already a party.

4. A complaint filed pursuant to this section must be placed under seal and so remain until the attorney general has elected whether to intervene. No service may be made upon the defendant until the complaint is unsealed.

5. On the date the private plaintiff files his complaint, he shall send a copy of the complaint to the attorney general by mail with return receipt requested. He shall send with each copy of the complaint a written disclosure of substantially all material evidence and information he possesses.

(Nev. Rev. Stat. § 357.080)

Action Based on Information Public Employee Discovered During Public Employment Prohibited in Certain Circumstances.

No action may be maintained pursuant to [NRS 357.080](#) that is based upon information discovered by a present or former employee of the state or a political subdivision during his employment, unless he first in good faith exhausted internal procedures for reporting and seeking recovery of the proceeds of the fraudulent activity through official channels and the state or political subdivision failed to act on the information provided for at least 6 months. **(Nev. Rev. Stat. § 357.090)**

Action Based Upon Certain Public Disclosures May Only be Brought by Attorney General or Original Source of Information.

1. No action may be maintained pursuant to this chapter that is based upon the public disclosure of allegations or transactions in a criminal, civil or administrative hearing, in an investigation, report, hearing or audit conducted by or at the request of a house of the legislature, an auditor or the governing body of a

political subdivision, or from the news media, unless the action is brought by the attorney general or an original source of the information.

2. As used in this section, "original source" means a person:

(a) Who has direct and independent knowledge of the information on which the allegations were based;

(b) Who voluntarily provided the information to the state or political subdivision before bringing an action based on the information; and

(c) Whose information provided the basis or caused the making of the investigation, hearing, audit or report that led to the public disclosure. **(Nev. Rev. Stat. § 357.100)**

Attorney General May Elect to Intervene in Action by Private Plaintiff; Motion to Extend Time for Election; Unsealing of Complaint.

1. Within 120 days after receiving a complaint and disclosure, the attorney general may intervene and proceed with the action or he may, for good cause shown, move the court to extend the time for his election whether to proceed. The motion may be supported by affidavits or other submissions in chambers.

2. If the attorney general elects to intervene, the complaint must be unsealed. If the attorney general elects not to intervene, the private plaintiff may proceed and the complaint must be unsealed. **(Nev. Rev. Stat. § 357.110)**

Effect of Intervention of Attorney General in Action by Private Plaintiff; Motion to Dismiss; Settlement.

1. If the attorney general intervenes, the private plaintiff remains a party to an action pursuant to [NRS 357.080](#).

2. The attorney general may move to dismiss the action for good cause. The private plaintiff must be notified of the filing of the motion and is entitled to oppose it and present evidence at the hearing.

3. Except as otherwise provided in this subsection, the attorney general may settle the action. If the attorney general intends to settle the action, he shall notify the private plaintiff of that fact. Upon the request of the private plaintiff, the court shall determine whether settlement of the action is consistent with the public purposes of this chapter and shall not approve the settlement of the action unless it determines that such settlement is consistent with the public purposes of this chapter. **(Nev. Rev. Stat. § 357.120)**

Effect of Declination of Attorney General to Intervene in Action by Private Plaintiff; Authority for and Effect of Election by Attorney General to Intervene Subsequently in Such Action.

1. If the attorney general elects not to intervene in an action pursuant to [NRS 357.080](#), the private plaintiff has the same rights in conducting the action as the attorney general would have had. A copy of each pleading or other paper filed in the

action, and a copy of the transcript of each deposition taken, must be mailed to the attorney general if the attorney general so requests and pays the cost thereof.

2. Upon timely application, the attorney general may intervene in an action in which he has previously declined to intervene, if the interest of the state or a political subdivision in recovery of the money or property involved is not being adequately represented by the private plaintiff.

3. If the attorney general so intervenes, the private plaintiff retains primary responsibility for conducting the action and any recovery must be apportioned as if the attorney general had not intervened. **(Nev. Rev. Stat. § 357.130)**

Response by Defendant.

The defendant is entitled to 30 days in which to respond after a complaint filed pursuant to [NRS 357.080](#) is unsealed and served upon him. **(Nev. Rev. Stat. § 357.140)**

Stay of Discovery by Private Plaintiff; Extension.

1. The court may stay discovery by a private plaintiff for not more than 60 days if the attorney general shows that the proposed discovery would interfere with the investigation or prosecution of a civil or criminal matter arising out of the same facts, whether or not the attorney general participates in the action.

2. The court may extend the stay upon a further showing that the attorney general has pursued the civil or criminal investigation or proceeding with reasonable diligence and the proposed discovery would interfere with its continuation. Discovery may not be stayed for a total of more than 6 months over the objection of the private plaintiff, except for good cause shown by the attorney general.

3. A showing made pursuant to this section must be made in chambers. **(Nev. Rev. Stat. § 357.150)**

Court-Imposed Limitation and Participation of Private Plaintiff in Action.

Upon a showing by the attorney general that unrestricted participation by a private plaintiff would interfere with or unduly delay the conduct of an action, or would be repetitious, irrelevant or solely for harassment, the court may limit his participation by, among other measures, limiting:

1. The number of witnesses he may call;
2. The length of the testimony of the witnesses; or
3. His cross-examination of witnesses.

(Nev. Rev. Stat. § 357.160)

Limitation of Actions; Standard of Proof; Effect of Certain Findings of Guilt in Criminal Proceeding on Action.

1. An action pursuant to this chapter may not be commenced more than 3 years after the date of discovery of the fraudulent activity by the attorney general or more than 5 years after the fraudulent activity occurred, whichever is earlier. Within those

limits, an action may be based upon fraudulent activity that occurred before October 1, 1999.

2. In an action pursuant to this chapter, the standard of proof is a preponderance of the evidence. A finding of guilt in a criminal proceeding charging false statement or fraud, whether upon a verdict of guilty or a plea of guilty or nolo contendere, estops the person found guilty from denying an essential element of that offense in an action pursuant to this chapter based upon the same transaction as the criminal proceeding. **(Nev. Rev. Stat. § 357.170)**

Award of Expenses and Attorney's Fees.

1. If the attorney general or a private plaintiff prevails in or settles an action pursuant to [NRS 357.080](#), the private plaintiff is entitled to a reasonable amount for expenses that the court finds were necessarily incurred, including reasonable costs, attorney's fees and the fees of expert consultants and expert witnesses. Those expenses must be awarded against the defendant, and may not be allowed against the state or a political subdivision.

2. If the defendant prevails in the action, the court may award him reasonable expenses and attorney's fees against the party or parties who participated in the action if it finds that the action was clearly frivolous or vexatious or brought solely for harassment. **(Nev. Rev. Stat. § 357.180)**

"Recovery" Defined.

As used in [NRS 357.190 to 357.230](#), inclusive, "recovery" includes civil penalties and does not include any allowance of expenses or attorney's fees. **(Nev. Rev. Stat. § 357.190)**

Distribution to Special Account in State General Fund if Attorney General Initiated Action.

If the attorney general initiates an action pursuant to this chapter, 33 percent of any recovery must be paid into the state general fund to the credit of a special account, for use by the attorney general as appropriated or authorized by the legislature in the investigation and prosecution of false claims.

(Nev. Rev. Stat. § 357.200)

Distribution to Private Plaintiff in Certain Actions.

1. If the attorney general intervenes at the outset in an action pursuant to [NRS 357.080](#), the private plaintiff is entitled, except as otherwise provided in [NRS 357.220](#), to receive not less than 15 percent or more than 33 percent of any recovery, according to the extent of his contribution to the conduct of the action.

2. If the attorney general does not intervene in the action at the outset, the private plaintiff is entitled, except as otherwise provided in [NRS 357.220](#), to receive not less than 25 percent or more than 50 percent of any recovery, as the court determines to be reasonable. **(Nev. Rev. Stat. § 357.210)**

Distribution to Private Plaintiff in Action Based Upon Information Obtained by Public Employee During Public

	<p>Employment.</p> <p>1. If the action is one described in NRS 357.090, the present or former employee of the state or political subdivision is not entitled to any minimum percentage of any recovery, but the court may award him no more than 33 percent of the recovery if the attorney general intervenes in the action at the outset, or no more than 50 percent if the attorney general does not intervene, according to the significance of his information, the extent of his contribution to the conduct of the action and the response to his efforts to report the false claim and gain recovery through other official channels.</p> <p>2. If the private plaintiff is a present or former employee of the state or a political subdivision and benefited financially from the fraudulent activity, he is not entitled to any minimum percentage of any recovery, but the court may award him no more than 33 percent of the recovery if the attorney general intervenes in the action at the outset, or no more than 50 percent if the attorney general does not intervene, according to the significance of his information, the extent of his contribution to the conduct of the action, the extent of his involvement in the fraudulent activity, his attempts to avoid or resist the activity and the other circumstances of the activity. (Nev. Rev. Stat. § 357.220)</p> <p>Distribution of Unapportioned Portion to General Fund of State or Political Subdivision, or Both.</p> <p>The portion of any recovery not apportioned pursuant to NRS 357.200; , 357.210; and 357.220 must be paid into the state general fund if the money, property or services were provided only by the state, or into the general fund of the political subdivision if they were provided only by a political subdivision. If the action involved both the state and a political subdivision, the court shall apportion the remaining portion of any recovery between them according to the respective values of the money, property or services provided by each. (Nev. Rev. Stat. § 357.230)</p>
<p>Whistleblower Protections</p>	<p>Employer Retaliation Prohibited</p> <p>An employer shall not adopt or enforce any rule or policy forbidding an employee to disclose information to the state, a political subdivision or a law enforcement agency or to act in furtherance of an action pursuant to this chapter, including investigation for, bringing or testifying in such an action.</p> <p>An employer shall not discharge, demote, suspend, threaten, harass, deny promotion to or otherwise discriminate against an employee in the terms or conditions of his employment because of lawful acts done by him on his own behalf or on behalf of others in disclosing information to the state, a political subdivision or a law enforcement agency in furtherance of an action pursuant to this chapter, including investigation for, bringing or testifying in such an action. (Nev. Rev. Stat. Ann. § 357.240)</p>

	<p>Liability of Employer for Violations of NRS 357.240; Entitlement of Employee to Remedies.</p> <p>1. An employer who violates subsection 2 of NRS 357.240 is liable to the affected employee in a civil action for all relief necessary to make him whole, including, without limitation, reinstatement with the same seniority as if the discrimination had not occurred or damages in lieu of reinstatement if appropriate, twice the amount of lost compensation, interest on the lost compensation, any special damage sustained as a result of the discrimination and punitive damages if appropriate. The employer is also liable for expenses recoverable pursuant to NRS 357.180, costs and attorney's fees.</p> <p>2. An employee is entitled to the remedies provided in subsection 1 only if:</p> <p>(a) He voluntarily disclosed information to the state or a political subdivision or voluntarily acted in furtherance of an action pursuant to this chapter; and</p> <p>(b) He was harassed, threatened with termination or demotion, or otherwise coerced by his employer into any participation in fraudulent activity. (Nev. Rev. Stat. Ann. § 357.250)</p>
STATE	NEW JERSEY
Defined Terms	No relevant defined terms.
Unlawful Acts/Penalties	<p>False Statements or Representations Made by Applicants for Medicaid Services</p> <p>Any person who willfully obtains benefits under the Medical Assistance Program to which he is not entitled, or in a greater amount than that to which he is entitled, and any provider who willfully receives medical assistance payments to which he is not entitled, or in a greater amount than that to which he is entitled, is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than \$ 10,000.00 or to imprisonment for not more than 3 years or both. (N.J. Stat. § 30:4D-17)</p> <p>False Statements or Representations Made by Providers of Medicaid Services</p> <p>(a) Any person who willfully obtains benefits under the Medical Assistance Program to which he is not entitled, or in a greater amount than that to which he is entitled, and any provider who willfully receives medical assistance payments to which he is not entitled, or in a greater amount than that to which he is entitled, is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than \$ 10,000.00 or to imprisonment for not more than 3 years or both.</p> <p>(b) Any provider, or any person, firm, partnership, corporation or entity is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than \$ 10,000.00 for the first and each subsequent offense or to imprisonment for not more than three years or both, for the following violations:</p> <p>(1) Knowingly and willfully makes or causes to be made any</p>

	<p>false statement or representation of a material fact in any cost study, claim form, or any document necessary to apply for or receive any benefit or payment regarding Medicaid services; or</p> <p>(2) At any time knowingly and willfully makes or causes to be made any false statement, written or oral, of a material fact for use in determining rights to such benefit or payment regarding Medicaid services; or</p> <p>(3) Conceals or fails to disclose the occurrence of an event which (a) affects his initial or continued right to any such benefit or payment, or (b) affects the initial or continued right to any such benefit or payment of any provider or any person, firm, partnership, corporation or other entity in whose behalf he has applied for or is receiving such benefit or payment with an intent to fraudulently secure benefits or payments not authorized regarding Medicaid services or in greater amount than that which is authorized regarding Medicaid services; or</p> <p>(4) Knowingly and willfully converts benefits or payments or any part thereof received for the use and benefit of any provider or any person, firm, partnership, corporation or other entity to a use other than the use and benefit of such provider or such person, firm, partnership, corporation or entity;</p> <p>(c) Any provider, or any person, firm, partnership, corporation or entity who solicits, offers, or receives any kickback, rebate or bribe in connection with:</p> <p>(1) The furnishing of items or services for which payment is or may be made in whole or in part regarding Medicaid services; or</p> <p>(2) The furnishing of items or services whose cost is or may be reported in whole or in part in order to obtain benefits or payments regarding Medicaid services; or</p> <p>(3) The receipt of any benefit or payment regarding Medicaid services, is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than \$10,000.00 or to imprisonment for not more than 3 years or both.</p> <p><i>(Section (c) does not apply to (i) a discount or other reduction in price under this act if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made under this act; and (ii) any amount paid by an employer to an employee who has a bona fide employment relationship with such employer for employment in the provision of covered items or services.)</i></p> <p>(d) Whoever knowingly and willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the conditions or operations of any institution or facility in order that such institution or facility may qualify either upon initial certification or recertification as a hospital, skilled nursing facility, intermediate care facility, or health agency, thereby entitling them to receive payments under this act, shall be guilty of a high misdemeanor and shall be liable to a penalty of not</p>
--	--

	<p>more than \$ 3,000.00 or imprisonment for not more than 1 year or both.</p> <p>(e) Any person, firm, corporation, partnership, or other legal entity who violates the provisions of any of the foregoing shall, in addition to any other penalties provided by law, be liable to civil penalties of (i) payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the payment was made to said person, firm, corporation, partnership or other legal entity for the period from the date upon which payment was made to the date upon which repayment is made to the State, (ii) payment of an amount not to exceed three-fold the amount of such excess benefits or payments, and (iii) payment in the sum of \$ 2,000.00 for each excessive claim for assistance, benefits or payments.</p> <p>(f) Any person, firm, corporation, partnership or other legal entity, other than an individual recipient of medical services reimbursable by the Division of Medical Assistance and Health Services, who, without intent to violate this act, obtains medical assistance or other benefits or payments under this act in excess of the amount to which he is entitled, shall be liable to a civil penalty of payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the benefit or payment was made until to the date upon which repayment is made to the State, provided, however, that no such person, firm, corporation, partnership or other legal entity shall be liable to such civil penalty when excess medical assistance or other benefits or payments under this act are obtained by such person, firm, corporation, partnership or other legal entity as a result of error made by the Division of Medical Assistance and Health Services, as determined by said division; provided, further, that if preliminary notification of an overpayment is not given to a provider by the division within 180 days after completion of the field audit as defined by regulation, no interest shall accrue during the period beginning 180 days after completion of the field audit and ending on the date preliminary notification is given to the provider.</p> <p>(g) All interest and civil penalties, and all medical assistance and other benefits to which a person, firm, corporation, partnership, or other legal entity was not entitled shall be recovered in an administrative procedure held pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 et seq.), except that recovery actions against minors or incompetents shall be initiated in a court of competent jurisdiction. (N.J. Stat. § 30:4D-17)</p>
<p>Whistleblower Protections</p>	<p>Retaliatory Action Prohibited</p> <p>"Retaliatory action" means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment. (N.J. Stat. § 34:19-2)</p> <p>An employer shall not take any retaliatory action against an employee because the employee does any of the following:</p>

	<p>(a) Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer, or another employer, with whom there is a business relationship, that the employee reasonably believes: (i) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care; or (ii) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity;</p> <p>(b) Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer, or another employer, with whom there is a business relationship, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into the quality of patient care; or</p> <p>(c) Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:</p> <p>(i) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;</p> <p>(ii) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity; or</p> <p>(iii) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment. (N.J. Stat. § 34:19-3)</p>
STATE	NEW YORK
Defined Terms	"Claim" means any request or demand, whether under a contract or otherwise, for money or property which is made to any employee, officer, or agent of the state or local government,

	<p>or to any contractor, grantee or other recipient, if the state or a local government provides any portion of the money or property which is requested or demanded or will reimburse such contractor, grantee or other recipient for the money or property which is requested or demanded.</p> <p>"False claim" means any claim which is, either in whole or in part, false or fraudulent.</p> <p>"Knowing" and "knowingly" mean that with respect to a claim or information relating to a claim, a person: (i) has actual knowledge of such claim or information; (ii) acts in deliberate ignorance of the truth or falsity of such claim or information, or (iii) acts in reckless disregard of the truth or falsity of such claim or information. Proof of specific intent to defraud is not required, provided however, that acts occurring by mistake or as a result of mere negligence are not covered by this article.</p> <p>(Assembly Bill 04308 - Section 188)</p>
<p>Unlawful Act/Penalties</p>	<p>Liability For Certain Acts.</p> <p>1. Any person who:</p> <p>(A) knowingly presents, or causes to be presented, to any employee, officer or agent of the state or local government, a false or fraudulent claim for payment or approval;</p> <p>(B) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the state or local government;</p> <p>(C) conspires to defraud the state or a local government by getting a false or fraudulent claim allowed or paid;</p> <p>(D) has possession, custody, or control of property or money used, or to be used, by the state or local government and, intending to defraud the state or a local government or willfully to conceal the property or money, delivers, or causes to be delivered, less property or money than the amount for which the person receives a certificate or receipt;</p> <p>(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state or a local government and, intending to defraud the state or a local government, makes or delivers the receipt without completely knowing that the information on the receipt is true;</p> <p>(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the state or a local government knowing that the officer or employee lawfully may not sell or pledge the property; or</p> <p>(G) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state or a local government; shall be liable: (I) to the state for a civil penalty of not less than six thousand dollars and not more than twelve thousand dollars, plus three times the amount of damages which the state sustains because of the act of that person; and (II) to any local government for three times the</p>

amount of damages sustained by the local government because of the acts of that person.

2. The court may assess not more than two times the amount of damages sustained because of the act of the person described above, if the court finds that:

(A) the person committing the violation of this section had furnished all information known to such person about the violation, to those officials responsible for investigating false claims violations on behalf of the state and any local government that sustained damages, within thirty days after the date on which such person first obtained the information;

(B) such person fully cooperated with any government investigation of such violation: and

(C) at the time such person furnished information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

3. A person who violates this section shall also be liable for the costs, including attorney's fees, of a civil action brought to recover any such penalty or damages.

4. This section shall not apply to claims, records or statements made under the tax law. **(Section 189)**

Civil Actions for False Claims.

1. Civil Enforcement Actions.

The Attorney General shall have the authority to investigate violations under section one hundred eighty-nine of this article. If the Attorney General believes that a person has violated or is violating such section, then the Attorney General may bring a civil action on behalf of the people of the state of New York or on behalf of a local government against such person. A local government also shall have the authority to investigate violations that may have resulted in damages to such local government under section one hundred eighty-nine of this article, and may bring a civil action on its own behalf to recover damages sustained by such local government as a result of such violations. No action may be filed pursuant to this subdivision against the federal government, the state or a local government, or any officer or employee thereof acting in his or her official capacity. The Attorney General shall consult with the office of Medicaid inspector general prior to filing any action related to the Medicaid program.

2. Qui tam civil actions. Any person may bring a qui tam civil action for a violation of section one hundred eighty-nine of this article on behalf of the people of the state of New York or a local government. No action may be filed pursuant to this subdivision against the federal government, the state or a local government, or any officer or employee thereof acting in his or her official capacity. **(Section 190)**

<p>Whistleblower Protections</p>	<p>Remedies of Employees.</p> <p>1. Any employee of any private or public employer 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 on behalf of the employer or others in furtherance of an action brought under this article, including the investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include but not be limited to:</p> <ul style="list-style-type: none"> (a) an injunction to restrain continued discrimination; (b) reinstatement to the position such employee would have had but for the discrimination or to an equivalent position; (c) reinstatement of full fringe benefits and seniority rights; (d) payment of two times back pay, plus interest; and (e) compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. <p>2. An employee described in subdivision one of this section may bring an action in the appropriate supreme court for the relief provided in this section. (Section 191)</p>
<p>STATE</p>	<p>PENNSYLVANIA</p>
<p>Defined Terms</p>	<p>Definitions</p> <p>"APPROPRIATE AUTHORITY." A Federal, State or local government body, agency or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or waste; or a member, officer, agent, representative or supervisory employee of the body, agency or organization. The term includes, but is not limited to, the Office of Attorney General, the Department of the Auditor General, the Treasury Department, the General Assembly and committees of the General Assembly having the power and duty to investigate criminal law enforcement, regulatory violations, professional conduct or ethics, or waste.</p> <p>"EMPLOYEE." A person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied, for a public body.</p> <p>"EMPLOYER." A person supervising one or more employees, including the employee in question; a superior of that supervisor; or an agent of a public body.</p> <p>"GOOD FAITH REPORT." A report of conduct defined in this act as wrongdoing or waste which is made without malice or consideration of personal benefit and which the person making the report has reasonable cause to believe is true.</p>

	<p>"PUBLIC BODY." All of the following:</p> <p>(1) A State officer, agency, department, division, bureau, board, commission, council, authority or other body in the executive branch of State government.</p> <p>(2) A county, city, township, regional governing body, council, school district, special district or municipal corporation, or a board, department, commission, council or agency.</p> <p>(3) Any other body which is created by Commonwealth or political subdivision authority or which is funded in any amount by or through Commonwealth or political subdivision authority or a member or employee of that body.</p> <p>"WASTE." An employer's conduct or omissions which result in substantial abuse, misuse, destruction or loss of funds or resources belonging to or derived from Commonwealth or political subdivision sources.</p> <p>"WHISTLEBLOWER." A person who witnesses or has evidence of wrongdoing or waste while employed and who makes a good faith report of the wrongdoing or waste, verbally or in writing, to one of the person's superiors, to an agent of the employer or to an appropriate authority.</p> <p>"WRONGDOING." A violation which is not of a merely technical or minimal nature of a Federal or State statute or regulation, of a political subdivision ordinance or regulation or of a code of conduct or ethics designed to protect the interest of the public or the employer.</p> <p>(43 P.S. § 1422)</p>
<p>Unlawful Acts/ Penalties</p>	<p>Provider Fraud</p> <p>If, after investigation, the Department determines that a provider has submitted or has caused to be submitted claims for payments which the provider is not otherwise entitled to receive, the Department will, in addition to an administrative action, refer the case record to the Medicaid Fraud Control Unit of the Department of Justice for further investigation and possible referral for prosecution under Federal, State and local laws. Providers who are convicted by a Federal court of willfully defrauding the Medicaid program are subject to a \$ 25,000 fine or up to five years imprisonment or both. (55 Pa. Code § 1101.74)</p> <p>Provider Prohibited Acts</p> <p>(a) An enrolled provider may not, either directly or indirectly, do any of the following acts:</p> <p>(1) Knowingly or intentionally present for allowance or payment a false or fraudulent claim or cost report for furnishing services or merchandise under MA, knowingly present for allowance or payment a claim or cost report for medically unnecessary</p>

	<p>services or merchandise under MA, or knowingly submit false information, for the purpose of obtaining greater compensation than that to which the provider is legally entitled for furnishing services or merchandise under MA.</p> <p>(2) Knowingly submit false information to obtain authorization to furnish services or items under MA.</p> <p>(3) Solicit, receive, offer or pay a remuneration, including a kickback, bribe or rebate, directly or indirectly, in cash or in kind, from or to a person in connection with furnishing of services or items or referral of a recipient for services and items.</p> <p>(4) Submit a duplicate claim for services or items for which the provider has already received or claimed reimbursement from a source.</p> <p>(5) Submit a claim for services or items which were not rendered by the provider or were not rendered to a recipient.</p> <p>(6) Submit a claim for services or items which includes costs or charges which are not related to the cost of the services or items.</p> <p>(7) Submit a claim or refer a recipient to another provider by referral, order or prescription, for services, supplies or equipment which are not documented in the record in the prescribed manner and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are not medically necessary.</p> <p>(8) Submit a claim which misrepresents the description of the services, supplies or equipment dispensed or provided, the date of service, the identity of the recipient or of the attending, prescribing, referring or actual provider.</p> <p>(9) Submit a claim for a service or item at a fee that is greater than the provider's charge to the general public.</p> <p>(10) Except in emergency situations, dispense, render or provide a service or item without a practitioner's written order and the consent of the recipient or submit a claim for a service or item which was dispensed or provided without the consent of the recipient.</p> <p>(11) Except in emergency situations, dispense, render or provide a service or item to a patient claiming to be a recipient without first making a reasonable effort to verify by a current Medical Services Eligibility card that the patient is an eligible recipient with no other medical resources.</p> <p>(12) Enter into an agreement, combination or conspiracy to obtain or aid another in obtaining payment from the Department for which the provider or other person is not entitled, that is, eligible.</p> <p>(14) Make a false statement in the application for enrollment or reenrollment in the program.</p> <p>(15) Enter into an agreement, combination or conspiracy to obtain or aid another in obtaining payment from the Department for which the provider or other person is not entitled, that is,</p>
--	--

eligible.

(16) Commit a prohibited act specified in § 1102.81(a) (relating to prohibited acts of a shared health facility and providers practicing in the shared health facility).

(b) A provider or person who commits a prohibited act specified above (except paragraph (11)), is subject to the penalties specified in §§ 1101.76, 1101.77 and 1101.83 (relating to criminal penalties; enforcement actions by the Department; and restitution and repayment). **(55 Pa. Code § 1101.75)**

Criminal Penalties

A person who is convicted of committing an offense listed in § 1101.75(a)(1) -- (10) and (12) -- (14) (relating to provider prohibited acts) will be subject to the following penalties:

(1) For the first conviction, the person is guilty of a felony of the third degree and is subject to a maximum penalty of a \$ 15,000 fine and 7 years imprisonment for each violation.

(2) When a person has been previously convicted in a State or Federal court of conduct that would constitute a violation of § 1101.75(a)(1) -- (10) and (12) -- (14), a subsequent allegation, indictment or information under § 1101.75(a) shall be classified as a felony of the second degree with a maximum penalty of \$ 25,000 and 10 years imprisonment.

(3) In addition to the penalties specified in subsections (a) and (b) and as ordered by the court, the convicted person shall repay the amount of excess benefits or payments received under the program, plus interest on the amount at the maximum legal rate. Interest will be calculated from the date payment was made by the Department to the date full repayment is made to the Commonwealth.

(4) As ordered by the Court, a convicted person shall pay to the Commonwealth an amount not to exceed threefold the amount of excess benefits or payments.

(5) The convicted person is ineligible to participate in the program for 5 years from the date of the conviction. **(55 Pa. Code § 1101.76)**

Enforcement Actions by the Department

(a) *Departmental determination of violation.* The Department may terminate a provider's enrollment and direct and indirect participation in the MA Program and seek restitution as specified in § 1101.83 (relating to restitution and repayment) if it determines that a provider, an employee of the provider or an agent of the provider has:

(1) Failed to comply with this chapter or the appropriate separate chapters relating to each provider type.

(2) Committed a prohibited act as specified in this chapter or the appropriate separate chapter relating to each provider type or under Article XIV of the Public Welfare Code ([62 P. S. §§ 1401 -- 1411](#)).

(3) Failed to comply with the conditions of participation listed in

Articles IV or XIV of the Public Welfare Code ([62 P. S. §§ 401 -- 493](#) and [1401 -- 1411](#)).

- (4) Not complied with the terms of the provider agreement.
- (5) Been suspended or terminated from Medicare.
- (6) Been convicted of a Medicare or Medicaid related criminal offense as certified by a Federal, State or local court.
- (7) Been convicted of a criminal offense under State or Federal laws relating to the practice of the provider's profession as certified by a court.
- (8) Been subject to a disciplinary action taken or entered against the provider in the records of the State licensing or certifying agency.
- (9) Had a controlled drug license withdrawn or failed to report to the Department changes in the Provider's Drug Enforcement Agency Number.
- (10) Rendered or ordered services or items which the Department's medical professionals have determined to be harmful to the recipient, of inferior quality or medically unnecessary.
- (11) Ordered services for recipients or billed the Department for rendering services to recipients at an unregistered shared health facility after the shared health facility and provider are notified by the Department that the shared health facility is not registered.
- (12) Refused to permit duly authorized State or Federal officials or their agents to examine the provider's medical, fiscal or other records as necessary to verify services or claims for payment under the program.

(b) Departmental termination of the provider's enrollment and participation.

- (1) The Department may terminate the enrollment and direct and indirect participation of, and suspend payments to, any provider upon 30 days advance notice for the convenience or best interest of the Department.
- (2) If the Department terminates the enrollment and participation of a provider for reasons specified in subsections (a)(3), (5), (6), (7) or (8), the effective date of the termination will be the date of the action specified in the appropriate paragraph of subsection (a).
- (3) Termination for criminal conviction or disciplinary action shall be as follows:
 - (i) The Department will terminate a provider's enrollment and participation for 5 years if the provider is convicted of a criminal act listed in Article XIV of the Public Welfare Code ([62 P. S. §§ 1401 -- 1411](#)), a Medicare/Medicaid related crime or a criminal offense under State or Federal law relating to the practice of the provider's profession. If the Department has an additional basis for termination which is unrelated to, and in addition to, the criminal conviction, it may terminate the provider for a period in

	<p>excess of 5 years.</p> <p>(ii) If the additional basis for the termination is a disciplinary action taken against the provider or entered in the records of the State licensing or certifying agency, the period of termination will be the duration of the disciplinary action plus 5 years for the criminal conviction.</p> <p>(iii) If the Department has a basis for termination which is related to the criminal conviction (with the exception of exclusions from Medicare) the minimum period of the termination will be the longer of 5 years or the period related to the other action.</p> <p><i>(c) Effects of termination of providers.</i></p> <p>(1) The Department does not pay for services or items rendered, prescribed or ordered on and after the effective date of a provider's termination from the Medical Assistance Program.</p> <p>(i) A provider is not paid for services or items rendered on and after the effective date of his termination from the program.</p> <p>(ii) A participating provider is not paid for services, including inpatient hospital care and nursing home care, or items prescribed or ordered by a provider who has been terminated from the program.</p> <p>(iii) A participating provider is paid for services or items prescribed or ordered by a provider who voluntarily withdraws from the program.</p> <p>(2) A provider whose enrollment in the program has been terminated may not, during the period of termination:</p> <p>(i) Own, render, order or arrange for a service for a recipient.</p> <p>(ii) Receive direct or indirect payments from the Department in the form of salary, equity, dividends, shared fees, contracts, kickbacks or rebates from or through a participating provider or related entity.</p> <p>(3) If a provider appeals the Department's action of terminating the enrollment and participation of or suspending payments to the provider:</p> <p>(i) The Department will pay the provider for compensable service rendered on and after the effective date specified in the notice if the appeal of the provider is upheld.</p> <p>(ii) The Department will not pay the provider for services rendered on or after the effective date specified in the notice if the appeal of the provider is denied.</p> <p><i>(d) Provider notification.</i></p> <p>(1) The Department will issue a Notice of Termination to a provider whose enrollment and participation is being terminated with cause or as a result of a criminal conviction. The notice will state the basis for the action, the effective date, whether the Department will consider re-enrollment and, if so, the date when re-enrollment will be considered.</p> <p>(2) If the Department is terminating the enrollment and</p>
--	---

participation of all providers or all providers of a specific type under a statute of the General Assembly of the Commonwealth or of the Congress of the United States, notification will be by publication in the *Pennsylvania Bulletin*.

(3) A provider's participation is automatically terminated as of the effective date of the provider's termination or suspension from Medicare. A notice confirming the termination will be sent to the provider.

(e) *Dissemination of information.*

(1) When the Department takes an action against a provider, including termination and initiation of a civil suit, it will also notify and give the reason for the termination to all of the following:

(i) The Medicaid Fraud Control Unit, Office of the Attorney General.

(ii) The Health Care Financing Administration.

(iii) Other State and local agencies involved in providing health care.

(iv) The applicable professional licensing board.

(2) After final adjudication, a copy of the Notice of Termination and the reasons for termination may be made available to Medicaid agencies of other states, the appropriate professional associations and the news media. Detailed case material and findings will be made available to the agencies specified in paragraph (1).

(3) The Department will issue a medicheck list containing the names of all providers who have been terminated from the Program.

(f) *Violations by nonparticipating former providers.*

(1) The Department may take an enforcement action against a nonparticipating former provider that it may impose upon a participating provider for an act committed while a provider.

(2) If the Department takes action, it will issue a Notice of Exclusion to the nonparticipating former provider stating the basis for the action, the effective date, whether the Department will consider re-enrollment, and, if so, the date when the request for re-enrollment will be considered. **(55 Pa. Code § 1101.77)**

Restitution and Repayment

(a) If the Department determines that a provider has billed and been paid for a service or item for which payment should not have been made, it will review the provider's paid and unpaid invoices and compute the amount of the overpayment or improper payment. The Department will use statistical sampling methods and, where appropriate, purchase invoices and other records for the purpose of calculating the amount of restitution due for a service, item, product or drug substitution.

(b) The Department may seek reimbursement from the ordering or prescribing provider for payments to another provider, if the Department determines that the ordering or prescribing provider has done either of the following:

- (1) Prescribed excessive diagnostic services; or
- (2) Ordered diagnostic services or treatment or both, without documenting the medical necessity for the service or treatment in the medical record of the MA recipient.
- (c) The amount of restitution demanded by the Department will be the amount of the overpayment received by the ordering or prescribing provider or the amount of payments to other providers for excessive or unnecessary services prescribed or ordered. If the ordering or prescribing provider is convicted of an offense under Article XIV of the Public Welfare Code ([62 P. S. §§ 1401 -- 1411](#)), the restitution penalties of that article applies.
- (d) The provider shall pay the amount of restitution owed to the Department either directly or by offset of valid invoices that have not yet been paid. The method of repayment is determined by the Department. All Departmental demands for restitution will be approved by the Deputy Secretary for Medical Assistance before the provider is notified.
- (e) If the Department determines that a provider has committed any prohibited act or has failed to satisfy any requirement under § 1101.75(a) (relating to provider prohibited acts), it may institute a civil action against the provider in addition to terminating the provider's enrollment. If the Department institutes a civil action against the provider, the Department may seek to recover twice the amount of excess benefits or payments plus legal interest from the date the violations occurred.
- (f) The provider is prohibited from billing an eligible recipient for any amount for which the provider is required to make restitution to the Department. **(55 Pa. Code § 1101.83)**

Provider Right of Appeal

- (a) *Right to appeal from termination of a provider's enrollment and participation.* If a provider's enrollment and participation are terminated by the Department, the provider may appeal the Department's decision, subject to the following conditions:
- (1) If a provider's enrollment and participation are terminated by the Department under the provider's termination or suspension from Medicare or conviction of a criminal act under § 1101.75 (relating to provider prohibited acts), the provider may appeal the Department's action only on the issue of identity.
 - (2) If the Department has terminated a provider's enrollment and participation for an additional cause unrelated to the conviction or disciplinary action as specified in § 1101.77(b)(3) (relating to enforcement actions by the Department), the provider may only appeal the period of the termination attributable to that additional cause.
 - (3) A written Notice of Appeal shall be filed within 30 days of the date of the notice of termination. The Notice of Appeal will be considered filed on the date it is received by the Director, Office of Hearings and Appeals.
 - (4) The Notice of Appeal shall include a copy of the letter of

termination, state the actions being appealed and explain in detail the reasons for the appeal.

(b) Right to appeal interim per diem rates, audit disallowances or payment settlements.

(1) A hospital, nursing home or other provider reimbursed by the Department on the basis of an interim per diem rate that is retrospectively adjusted on the basis of the provider's cost experience during the period for which the interim rate is effective can appeal its interim per diem rate, the results of its annual audit or its annual payment settlement as follows:

(i) The Notice of Appeal of an interim rate shall be filed within 30 days of the date of the letter from the Bureau of Reimbursement Methods, Office of Medical Assistance, advising the provider of its interim per diem rate.

(ii) The Notice of Appeal from an audit disallowance shall be filed within 30 days of the date of the letter from the Bureau of Reimbursement Methods, Office of Medical Assistance, or the Bureau of State-Aided Audits, Office of the Auditor General, transmitting the provider's audit report. If a facility fails to appeal from the auditor's findings at audit, the facility may not contest the finding in another proceeding.

(iii) The Notice of Appeal of the final payment settlement shall be appealed within 30 days of the date of the letter from the Comptroller of the Department, advising the provider of the final settlement of accounts.

(2) The Notice of Appeal shall include a copy of the letter establishing the interim per diem rate, the letter forwarding the audit report or the letter setting forth the payment settlement, as applicable, to the provider. The Notice of Appeal also shall set forth in detail the reasons for the appeal.

(3) The Notice of Appeal will be considered filed on the date it is received by the Director, Office of Hearings and Appeals.

(4) This paragraph applies to overpayments relating to cost reporting periods ending prior to October 1, 1985. If an analysis of a provider's audit report by the Office of the Comptroller discloses that an overpayment has been made to the provider, the Comptroller of the Department shall advise the provider of the amount of the overpayment. The provider shall repay the amount of the overpayment within 6 months of the date the Comptroller notifies the provider of the overpayment. The repayment period will commence on the date set forth in the notice from the Comptroller of the overpayment. If repayment is not made within 6 months, the Department will recoup the amount of the overpayment from future payments to the provider.

(5) An appeal of an audit disallowance does not suspend the provider's obligation to repay the amount of the overpayment to the Department.

(c) Right to appeal other action of the Department. Appeals of other adverse actions of the Department shall be filed in writing

within 30 days of the date of the notice of the action to the provider. The Notice of Appeal will be considered filed on the date it is received by the Director, Office of Hearings and Appeals.

The Notice of Appeal shall include a copy of the notice of adverse action sent to the provider by the Department and shall set forth in detail the reasons for the appeal.

(d) *Nonappealable actions.* The provider does not have the right to appeal the following:

(1) Disallowances for services or items provided to noneligible individuals.

(2) Invoice adjustments to correct clerical errors or to reduce the amount billed to the maximum fee allowed by the Department.

(3) Disallowances for untimely submission of invoices, except where it is alleged the Department has directly caused the delay.

(4) Disallowances for services or items rendered during a period of nonenrollment or termination, except on the issue of identity.

(5) Rejection of an application to re-enroll a terminated or excluded provider prior to the date the Department specified that it would consider re-enrollment. **(55 Pa. Code § 1101.84)**

Recipient Prohibited Acts, Criminal Penalties and Civil Penalties

(a) It shall be unlawful for a person to commit any of the following acts:

(1) Knowingly or intentionally make or cause to be made a false statement or representation of a material fact in an application for a benefit or payment.

(2) Having knowledge of the occurrence of an event affecting his initial or continued right to a benefit or payment or the initial or continued right to a benefit or payment of another individual in whose behalf he has applied for or is receiving the benefit or payment, conceal or fail to disclose the event with an intent fraudulently to secure the benefit or payment either in a greater amount or quantity than is due or when no the benefit or payment is authorized.

(3) Having made application to receive a benefit or payment for the use and benefit of himself or another and having received it, knowingly or intentionally convert the benefit or a part of it to a use other than for the use and benefit of himself or the other person.

(4) Knowingly or intentionally visit more than three practitioners or providers, who specialize in the same field, in the course of 1 month for the purpose of obtaining excessive services or benefits beyond what is reasonably needed (as determined by medical professionals engaged by the Department) for the treatment of a diagnosed condition of the recipient.

(5) Borrow or use a MA identification card for which he is not

	<p>entitled or otherwise gain or attempt to gain medical services covered under the MA Program if he has not been determined eligible for the Program.</p> <p>(b) Criminal penalties shall consist of the following:</p> <p>(1) A person who commits a violation of subsection (a)(1), (2) or (3) is guilty of a felony of the third degree for each violation thereof with a maximum penalty \$ 15,000 and 7 years imprisonment.</p> <p>(2) A person who commits a violation of subsection (a)(4) or (5) is guilty of a misdemeanor of the first degree for each violation thereof with a maximum penalty of \$ 10,000 and 5 years imprisonment.</p> <p>(c) Noncriminal penalties shall consist of the following:</p> <p>(1) A person who is convicted of a violation of subsection (a)(1), (2), (3), (4) or (5) shall, upon notification by the Department, forfeit all rights to MA benefits for any period of incarceration.</p> <p>(2) If the Department determines that a recipient misuses or overutilizes MA benefits, the Department is authorized to restrict a recipient to a provider of his choice for each medical specialty or type of provider covered under the MA Program.</p> <p>(3) If the Department determines that a general assistance eligible person who is also a MA recipient has violated subsection (a)(3), (4) or (5), the Department will have the authority to terminate the recipient's rights to MA benefits for a period up to 1 year.</p> <p>(4) If the Department determines that a recipient has violated subsection (a)(3), (4) or (5), the Department will have the authority to institute a civil suit against the recipient in the court of common pleas for the amount of the benefits obtained by the recipient in violation of the paragraphs plus legal interest from the date the violations occurred.</p> <p>(5) If it is found that a recipient or a member of his family or household, who would have been ineligible for MA, possessed unreported real or personal property in excess of the amount permitted by law, the amount collectible shall be limited to an amount equal to the market value of such excess property or the amount of MA granted during the period the excess property was held, whichever is less. Reimbursement of the overpayment shall be sought from the recipient, the person acting on the recipient's behalf or survivors benefiting from receiving the property. Proof of date of acquisition of the property shall be provided by the recipient or person acting on his behalf. Where a person receives MA for which he would have been ineligible due to possession of the unreported property, and proof of date of acquisition of the property is not provided, it shall be deemed that the personal property was held by the recipient the entire time he was on Medical Assistance, and reimbursement shall be for MA paid for the recipient or the value of the excess property, whichever is less. Reimbursement shall be sought from the recipient, the person acting on the recipient's behalf, the person receiving or holding</p>
--	--

	<p>the property, the recipient's estate or survivors benefiting from receiving the property. The Department is authorized to institute a civil suit in the court of common pleas to enforce the rights established by this section. (55 Pa. Code § 1101.92)</p> <p>Restitution by Recipient In addition to civil action or criminal prosecution and upon written notification by the Office of Medical Assistance or the Office of Claims Settlement, a recipient shall reimburse the Department for services, supplies and drugs that were improperly obtained, transferred to other persons, resold or exchanged for other merchandise or products. (55 Pa. Code § 1101.93)</p> <p>Recipient Right of Appeal Departmental actions against a recipient for misutilization and abuse, which include assignment to the restricted recipient program, are subject to the right of appeal in accordance with Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings). (55 Pa. Code § 1101.94)</p>
Whistleblower Protections	<p>Protection of Employees</p> <p>(a) PERSONS NOT TO BE DISCHARGED.-- No employer may discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee or a person acting on behalf of the employee makes a good faith report or is about to report, verbally or in writing, to the employer or appropriate authority an instance of wrongdoing or waste.</p> <p>(b) DISCRIMINATION PROHIBITED.-- No employer may discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee is requested by an appropriate authority to participate in an investigation, hearing or inquiry held by an appropriate authority or in a court action. (43 P.S. § 1423)</p>
STATE	SOUTH CAROLINA
Defined Terms	<p>“False Claim” means a statement, representation or claim made or presented in any form including, but not limited to, a claim, statement, or representation which is computer-generated or transmitted or made, produced or transmitted by an electronic means or device. (S.C. Code Ann. § 43-7-60)</p>
Unlawful Acts	<p>False Claims Made By Providers</p> <p>Providers of medical goods, services, or assistance cannot knowingly and willfully make or cause to be made a false claim, statement or representation of a material fact in the following circumstances:</p> <ol style="list-style-type: none"> 1. In an application or request for a benefit, payment, or reimbursement from a state or federal agency.

	<p>2. On a report, certificate, or similar document (computerized or paper) submitted to state or federal agency administering the Medicaid Program in order to qualify or remain qualified to provide assistance, goods, or services, or receive reimbursement, payment, or benefit for the assistance, goods, or services.</p> <p>It is also unlawful for a provider of medical assistance, goods, or services knowingly and willfully to conceal or fail to disclose any material fact, event, or transaction that affects:</p> <ol style="list-style-type: none"> 1. Provider's initial or continued entitlement to payment, reimbursement, or benefits under Medicaid, or 2. Amount of payment, reimbursement, or benefit to which the provider may be entitled for services, goods, or assistance rendered. (S.C. Code Ann. § 43-7-60) <p>False Statements or Representations Made by Applicants for Medicaid Services</p> <p>Violations include:</p> <ol style="list-style-type: none"> 1. Knowing and willful false statements or representations of material facts on applications for Medicaid assistance, goods, or services when the person makes such false statement or representation for the purpose of determining entitlement to Medicaid assistance, goods, or services. 2. Knowing and willful concealment or failure by an applicant or recipient of services, or someone acting on their behalf, to disclose material facts affecting the applicant's or recipient's initial or continued entitlement to receive assistance, goods, or services under the state's Medicaid program. <p>Receiving benefits, services, or goods under the Medicaid program to sell, lease, lend, or otherwise exchange rights, privileges, or benefits to another person. (S.C. Code Ann. § 43-7-70)</p>
<p>Penalties</p>	<p>False Claims Made by Providers</p> <p>Each false claim, representation, or statement, or each fact, event, or transaction concealed or not disclosed, constitutes a separate offense.</p> <p>A person who violates this law will be guilty of medical assistance provider fraud, a Class A Misdemeanor, subject upon conviction to no more than three (3) years of imprisonment and a fine of no more than \$1,000 per offense.</p> <p>Additionally, the Attorney General may bring an action to recover damages equal to three (3) times the amount of an overstatement or overpayment and the court may impose civil penalties of \$2,000 for each false claim, representation, or overstatement.</p> <p>Other administrative sanctions, or civil and/or criminal actions may be brought. (S.C. Code Ann. § 43-7-60)</p>

	<p>False Statements or Representations Made by Applicants for Medicaid Services</p> <p>A person who performs an unlawful act as described above will be guilty of “medical assistance provider fraud”, a Class A Misdemeanor, subject upon conviction to no more than three (3) years of imprisonment and a fine of no more than \$1,000, or both. (S.C. Code Ann. § 43-7-70)</p>
Whistleblower Protections	There are no specific whistleblower protections in South Carolina’s above described laws.
STATE	TENNESSEE
Defined Terms	<p>"Claim" includes any request or demand for money, property, or services made to any employee, officer, or agent of the state, or to any contractor, grantee, or other recipient, whether under contract or not, if any portion of the money, property, or services requested or demanded was issued from, or was provided by, the state. (Tenn. Code Ann. § 71-5-182)</p> <p>"Knowing" and "Knowingly" mean that a person, with respect to information (i) Has actual knowledge of the information; (ii) Acts in deliberate ignorance of the truth or falsity of the information; or (iii) Acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required. (Tenn. Code Ann. § 71-5-182)</p>
Unlawful Act/ Penalties	<p>False Statements or Representations Made by Applicants/Providers for Medicaid Services</p> <p>Any person who:</p> <ol style="list-style-type: none"> (1) Presents, or causes to be presented, to the state a claim for payment under the Medicaid program knowing such claim is false or fraudulent; (2) Makes, uses, or causes to be made or used, a record or statement to get a false or fraudulent claim under the Medicaid program paid for or approved by the state knowing such record or statement is false; (3) Conspires to defraud the state by getting a claim allowed or paid under the Medicaid program knowing such claim is false or fraudulent; or (4) Makes, uses, or causes to be made or used, a record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state, relative to the Medicaid program, knowing such record or statement is false; <p>is liable to the state for a civil penalty of not less than five thousand dollars (\$5,000) and not more than twenty-five thousand dollars (\$25,000), plus three (3) times the amount of damages which the state sustains because of the act of that person.</p> <p>However, if the court finds that:</p> <ol style="list-style-type: none"> (1) The person committing the violation of this subsection (a) furnished officials of the state responsible for investigating false claims violations with all information known to such person

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

(2) Such person fully cooperated with any state investigation of such violation; and

(3) At the time such person furnished the state with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under §§ 71-5-181 through 71-5-186, with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation. **(Tenn. Code Ann. § 71-5-182)**

Civil Actions - Employee Remedies.

If the attorney general and reporter finds that a person has violated or is violating §71-5-182, the attorney general and reporter may bring a civil action under this section against the person. **(Tenn. Code Ann. § 71-5-183)**

Service - Limitations.

(a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under § 71-5-183 may be served at any place in the United States.

(b) A civil action under § 71-5-183 may not be brought:

(1) More than six (6) years after the date on which the violation of § 71-5-182 is committed; or

(2) More than three (3) years after the date when facts material to the right of action are known or reasonably should have been known by the official of the state charged with responsibility to act in the circumstances, but in no event more than ten (10) years after the date on which the violation is committed, whichever occurs last.

(c) In any action brought under § 71-5-183, the state shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(d) Notwithstanding any other provision of law, the Tennessee Rules of Criminal Procedure, or the Tennessee Rules of Evidence, a final judgment rendered in favor of the state in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall stop the defendant from denying the essential elements of the offense in any action that involves the same transaction as in the criminal proceeding and that is brought under subsection (a) or (b) or § 71-5-183.

(Tenn. Code Ann. § 71-5-184)

Venue.

Any action under § 71-5-183 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one (1) defendant can be found, resides, transacts business, or in which any act proscribed by § 71-5-182 occurred. A summons as required by the Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.

	(Tenn. Code Ann. § 71-5-185)
Whistleblower Protections	<p>Retaliation Prohibited</p> <p>Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by such employee's employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, two (2) times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate court for the relief provided herein. (Tenn. Code Ann. § 71-5-183(g))</p>
STATE	TEXAS
Defined Terms	<p>"Claim" means a written or electronically submitted request or demand that:</p> <p>(A) is signed by a provider or a fiscal agent and that identifies a product or service provided or purported to have been provided to a Medicaid recipient as reimbursable under the Medicaid program, without regard to whether the money that is requested or demanded is paid; or</p> <p>(B) states the income earned or expense incurred by a provider in providing a product or a service and that is used to determine a rate of payment under the Medicaid program.</p> <p>"Documentary Material" means a record, document, or other tangible item of any form, including:</p> <p>(A) a medical document or X ray prepared by a person in relation to the provision or purported provision of a product or service to a Medicaid recipient;</p> <p>(B) a medical, professional, or business record relating to:</p> <p>(i) the provision of a product or service to a Medicaid recipient; or</p> <p>(ii) a rate or amount paid or claimed for a product or service, including a record relating to a product or service provided to a person other than a Medicaid recipient as needed to verify the rate or amount;</p> <p>(C) a record required to be kept by an agency that regulates health care providers; or</p> <p>(D) a record necessary to disclose the extent of services a provider furnishes to Medicaid recipients</p>

"Health Care Practitioner" means a dentist, podiatrist, psychologist, physical therapist, chiropractor, registered nurse, or other provider licensed to provide health care services in this state.

"Managed Care Organization" has the meaning assigned by Section 32.039(a).

"Medicaid Program" means the state Medicaid program.

"Medicaid Recipient" means an individual on whose behalf a person claims or receives a payment from the Medicaid program or a fiscal agent, without regard to whether the individual was eligible for benefits under the Medicaid program.

"Physician" means a physician licensed to practice medicine in this state.

"Provider" means a person who participates in or who has applied to participate in the Medicaid program as a supplier of a product or service and includes:

(A) a management company that manages, operates, or controls another provider;

(B) a person, including a medical vendor, that provides a product or service to a provider or to a fiscal agent;

(C) an employee of a provider;

(D) a managed care organization; and

(E) a manufacturer or distributor of a product for which the Medicaid program provides reimbursement.

"Service" includes care or treatment of a Medicaid recipient.

"Signed" means to have affixed a signature directly or indirectly by means of handwriting, typewriting, signature stamp, computer impulse, or other means recognized by law.

"Unlawful act" means an act declared to be unlawful under Section 36.002. **(Tex. Hum. Res. Code § 36.001)**

Culpable Mental State

(a) For purposes of this chapter, a person acts "knowingly" with respect to information if the person:

(1) has knowledge of the information;

(2) acts with conscious indifference to the truth or falsity of the information; or

(3) acts in reckless disregard of the truth or falsity of the information.

	<p>(b) Proof of the person's specific intent to commit an unlawful act under Section 36.002 is not required in a civil or administrative proceeding to show that a person acted "knowingly" with respect to information under this chapter. (Tex. Hum. Res. Code § 36.011)</p>
<p>Unlawful Acts/ Penalties</p>	<p>Unlawful Acts</p> <p>A person commits an unlawful act if the person:</p> <p>(1) knowingly makes or causes to be made a false statement or misrepresentation of a material fact to permit a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;</p> <p>(2) knowingly conceals or fails to disclose information that permits a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;</p> <p>(3) knowingly applies for and receives a benefit or payment on behalf of another person under the Medicaid program and converts any part of the benefit or payment to a use other than for the benefit of the person on whose behalf it was received;</p> <p>(4) knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning:</p> <p>(A) the conditions or operation of a facility in order that the facility may qualify for certification or recertification required by the Medicaid program, including certification or recertification as:</p> <ul style="list-style-type: none"> (i) a hospital; (ii) a nursing facility or skilled nursing facility; (iii) a hospice; (iv) an intermediate care facility for the mentally retarded; (v) an assisted living facility; or (vi) a home health agency; or <p>(B) information required to be provided by a federal or state law, rule, regulation, or provider agreement pertaining to the Medicaid program;</p> <p>(5) except as authorized under the Medicaid program, knowingly pays, charges, solicits, accepts, or receives, in addition to an amount paid under the Medicaid program, a gift, money, a donation, or other consideration as a condition to the provision of a service or product or the continued provision of a service or product if the cost of the service or product is paid for, in whole or in part, under the Medicaid program;</p> <p>(6) knowingly presents or causes to be presented a claim for payment under the Medicaid program for a product provided or a service rendered by a person who:</p> <p>(A) is not licensed to provide the product or render the service,</p>

	<p>if a license is required; or</p> <p>(B) is not licensed in the manner claimed;</p> <p>(7) knowingly makes a claim under the Medicaid program for:</p> <p>(A) a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner;</p> <p>(B) a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry; or</p> <p>(C) a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate;</p> <p>(8) makes a claim under the Medicaid program and knowingly fails to indicate the type of license and the identification number of the licensed health care provider who actually provided the service;</p> <p>(9) knowingly enters into an agreement, combination, or conspiracy to defraud the state by obtaining or aiding another person in obtaining an unauthorized payment or benefit from the Medicaid program or a fiscal agent;</p> <p>(10) is a managed care organization that contracts with the Health and Human Services Commission or other state agency to provide or arrange to provide health care benefits or services to individuals eligible under the Medicaid program and knowingly:</p> <p>(A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract;</p> <p>(B) fails to provide to the commission or appropriate state agency information required to be provided by law, commission or agency rule, or contractual provision; or</p> <p>(C) engages in a fraudulent activity in connection with the enrollment of an individual eligible under the Medicaid program in the organization's managed care plan or in connection with marketing the organization's services to an individual eligible under the Medicaid program;</p> <p>(11) knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section; or</p> <p>(12) knowingly makes, uses, or causes the making or use of a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to this state under the Medicaid program. (Tex. Hum. Res. Code § 36.002)</p> <p>Documentary Material in Possession of State Agency</p> <p>(a) A state agency, including the Health and Human Services Commission, the Texas Department of Human Services, the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, or the Department of Protective and Regulatory Services, shall provide the attorney general access to all documentary materials of persons and Medicaid recipients under the Medicaid program to which that agency has</p>
--	--

access. Documentary material provided under this subsection is provided to permit investigation of an alleged unlawful act or for use or potential use in an administrative or judicial proceeding.

(b) Except as ordered by a court for good cause shown, the office of the attorney general may not produce for inspection or copying or otherwise disclose the contents of documentary material obtained under this section to a person other than:

- (1) an employee of the attorney general;
- (2) an agency of this state, the United States, or another state;
- (3) a criminal district attorney, district attorney, or county attorney of this state;
- (4) the United States attorney general;
- (5) a state or federal grand jury;
- (6) a political subdivision of this state; or
- (7) a person authorized by the attorney general to receive the information. **(Tex. Hum. Res. Code § 36.003)**

Immunity

Notwithstanding any other law, a person is not civilly or criminally liable for providing access to documentary material under this chapter to:

- (1) an employee of the attorney general;
- (2) an agency of this state, the United States, or another state;
- (3) a criminal district attorney, district attorney, or county attorney of this state;
- (4) the United States attorney general;
- (5) a state or federal grand jury;
- (6) a political subdivision of this state; or
- (7) a person authorized by the attorney general to receive the information. **(Tex. Hum. Res. Code § 36.004)**

Suspension or Revocation of Agreement; Professional Discipline

(a) A health and human services agency, as defined by [Section 531.001, Government Code](#):

- (1) shall suspend or revoke:
 - (A) a provider agreement between the agency and a person, other than a person who operates a nursing facility or an ICF-MR facility, found liable under Section 36.052; and
 - (B) a permit, license, or certification granted by the agency to a person, other than a person who operates a nursing facility or an ICF-MR facility, found liable under Section 36.052; and
- (2) may suspend or revoke:
 - (A) a provider agreement between the agency and a person who operates a nursing facility or an ICF-MR facility and who is found liable under Section 36.052; or
 - (B) a permit, license, or certification granted by the agency to a person who operates a nursing facility or an ICF-MR facility and

	<p>who is found liable under Section 36.052.</p> <p>(b) A provider found liable under Section 36.052 for an unlawful act may not, for a period of 10 years, provide or arrange to provide health care services under the Medicaid program or supply or sell, directly or indirectly, a product to or under the Medicaid program. The executive commissioner of the Health and Human Services Commission may by rule:</p> <p>(1) provide for a period of ineligibility longer than 10 years; or</p> <p>(2) grant a provider a full or partial exemption from the period of ineligibility required by this subsection if the executive commissioner finds that enforcement of the full period of ineligibility is harmful to the Medicaid program or a beneficiary of the program.</p> <p>(b-1) The period of ineligibility begins on the date on which the determination that the provider is liable becomes final.</p> <p>(b-2) Subsections (b) and (b-1) do not apply to a provider who operates a nursing facility or an ICF-MR facility.</p> <p>(c) A person licensed by a state regulatory agency who commits an unlawful act is subject to professional discipline under the applicable licensing law or rules adopted under that law.</p> <p>(d) For purposes of this section, a person is considered to have been found liable under Section 36.052 if the person is found liable in an action brought under Subchapter C.</p> <p>(Tex. Hum. Res. Code § 36.005)</p> <p>Application of Other Law</p> <p>The application of a civil remedy under this chapter does not preclude the application of another common law, statutory, or regulatory remedy, except that a person may not be liable for a civil remedy under this chapter and civil damages or a penalty under Section 32.039 if the civil remedy and civil damages or penalty are assessed for the same act. (Tex. Hum. Res. Code § 36.006)</p> <p>Recovery of Costs, Fees, and Expenses</p> <p>The attorney general may recover fees, expenses, and costs reasonably incurred in obtaining injunctive relief or civil remedies or in conducting investigations under this chapter, including court costs, reasonable attorney's fees, witness fees, and deposition fees. (Tex. Hum. Res. Code § 36.007)</p> <p>Use of Money Recovered</p> <p>The legislature, in appropriating money recovered under this chapter, shall consider the requirements of the attorney general and other affected state agencies in investigating Medicaid fraud and enforcing this chapter. (Tex. Hum. Res. Code § 36.008)</p> <p>Injunctive Relief</p> <p>(a) If the attorney general has reason to believe that a person is committing, has committed, or is about to commit an unlawful act, the attorney general may institute an action for an</p>
--	---

appropriate order to restrain the person from committing or continuing to commit the act.

(b) An action under this section shall be brought in a district court of Travis County or of a county in which any part of the unlawful act occurred, is occurring, or is about to occur.

(Tex. Hum. Res. Code § 36.051)

Civil Remedies

(a) Except as provided by Subsection (c), a person who commits an unlawful act is liable to the state for:

(1) the amount of any payment or the value of any monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the unlawful act, including any payment made to a third party;

(2) interest on the amount of the payment or the value of the benefit described by Subdivision (1) at the prejudgment interest rate in effect on the day the payment or benefit was received or paid, for the period from the date the benefit was received or paid to the date that the state recovers the amount of the payment or value of the benefit;

(3) a civil penalty of:

(A) not less than \$ 5,000 or more than \$ 15,000 for each unlawful act committed by the person that results in injury to an elderly person, as defined by Section 48.002(a)(1), a disabled person, as defined by Section 48.002(a)(8)(A), or a person younger than 18 years of age; or

(B) not less than \$ 1,000 or more than \$ 10,000 for each unlawful act committed by the person that does not result in injury to a person described by Paragraph (A); and

(4) two times the amount of the payment or the value of the benefit described by Subdivision (1).

(b) In determining the amount of the civil penalty described by Subsection (a)(3), the trier of fact shall consider:

(1) whether the person has previously violated the provisions of this chapter;

(2) the seriousness of the unlawful act committed by the person, including the nature, circumstances, extent, and gravity of the unlawful act;

(3) whether the health and safety of the public or an individual was threatened by the unlawful act;

(4) whether the person acted in bad faith when the person engaged in the conduct that formed the basis of the unlawful act; and

(5) the amount necessary to deter future unlawful acts.

(c) The trier of fact may assess a total of not more than two times the amount of a payment or the value of a benefit described by Subsection (a)(1) if the trier of fact finds that:

(1) the person furnished the attorney general with all information known to the person about the unlawful act not later

than the 30th day after the date on which the person first obtained the information; and

(2) at the time the person furnished all the information to the attorney general, the attorney general had not yet begun an investigation under this chapter.

(d) An action under this section shall be brought in Travis County or in a county in which any part of the unlawful act occurred.

(e) The attorney general may:

(1) bring an action for civil remedies under this section together with a suit for injunctive relief under Section 36.051; or

(2) institute an action for civil remedies independently of an action for injunctive relief. **(Tex. Hum. Res. Code § 36.052)**

Investigation

(a) The attorney general may take action under Subsection (b) if the attorney general has reason to believe that:

(1) a person has information or custody or control of documentary material relevant to the subject matter of an investigation of an alleged unlawful act;

(2) a person is committing, has committed, or is about to commit an unlawful act; or

(3) it is in the public interest to conduct an investigation to ascertain whether a person is committing, has committed, or is about to commit an unlawful act.

(b) In investigating an unlawful act, the attorney general may:

(1) require the person to file on a prescribed form a statement in writing, under oath or affirmation, as to all the facts and circumstances concerning the alleged unlawful act and other information considered necessary by the attorney general;

(2) examine under oath a person in connection with the alleged unlawful act; and

(3) execute in writing and serve on the person a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying of the material under Section 36.054.

(c) The office of the attorney general may not release or disclose information that is obtained under Subsection (b)(1) or (2) or any documentary material or other record derived from the information except:

(1) by court order for good cause shown;

(2) with the consent of the person who provided the information;

(3) to an employee of the attorney general;

(4) to an agency of this state, the United States, or another state;

(5) to any attorney representing the state under Section 36.055 or in a civil action brought under Subchapter C;

(6) to a political subdivision of this state; or

(7) to a person authorized by the attorney general to receive the

information.

(d) The attorney general may use documentary material derived from information obtained under Subsection (b)(1) or (2), or copies of that material, as the attorney general determines necessary in the enforcement of this chapter, including presentation before a court.

(e) If a person fails to file a statement as required by Subsection (b)(1) or fails to submit to an examination as required by Subsection (b)(2), the attorney general may file in a district court of Travis County a petition for an order to compel the person to file the statement or submit to the examination within a period stated by court order. Failure to comply with an order entered under this subsection is punishable as contempt.

(f) An order issued by a district court under this section is subject to appeal to the supreme court. **(Tex. Hum. Res. Code § 36.053)**

Civil Investigative Demand

(a) An investigative demand must:

(1) state the rule or statute under which the alleged unlawful act is being investigated and the general subject matter of the investigation;

(2) describe the class or classes of documentary material to be produced with reasonable specificity to fairly indicate the documentary material demanded;

(3) prescribe a return date within which the documentary material is to be produced; and

(4) identify an authorized employee of the attorney general to whom the documentary material is to be made available for inspection and copying.

(b) A civil investigative demand may require disclosure of any documentary material that is discoverable under the Texas Rules of Civil Procedure.

(c) Service of an investigative demand may be made by:

(1) delivering an executed copy of the demand to the person to be served or to a partner, an officer, or an agent authorized by appointment or by law to receive service of process on behalf of that person;

(2) delivering an executed copy of the demand to the principal place of business in this state of the person to be served; or

(3) mailing by registered or certified mail an executed copy of the demand addressed to the person to be served at the person's principal place of business in this state or, if the person has no place of business in this state, to a person's principal office or place of business.

(d) Documentary material demanded under this section shall be produced for inspection and copying during normal business hours at the office of the attorney general or as agreed by the person served and the attorney general.

(e) The office of the attorney general may not produce for inspection or copying or otherwise disclose the contents of

	<p>documentary material obtained under this section except:</p> <ul style="list-style-type: none">(1) by court order for good cause shown;(2) with the consent of the person who produced the information;(3) to an employee of the attorney general;(4) to an agency of this state, the United States, or another state;(5) to any attorney representing the state under Section 36.055 or in a civil action brought under Subchapter C;(6) to a political subdivision of this state; or(7) to a person authorized by the attorney general to receive the information. <p>(e-1) The attorney general shall prescribe reasonable terms and conditions allowing the documentary material to be available for inspection and copying by the person who produced the material or by an authorized representative of that person. The attorney general may use the documentary material or copies of it as the attorney general determines necessary in the enforcement of this chapter, including presentation before a court.</p> <p>(f) A person may file a petition, stating good cause, to extend the return date for the demand or to modify or set aside the demand. A petition under this section shall be filed in a district court of Travis County and must be filed before the earlier of:</p> <ul style="list-style-type: none">(1) the return date specified in the demand; or(2) the 20th day after the date the demand is served. <p>(g) Except as provided by court order, a person on whom a demand has been served under this section shall comply with the terms of an investigative demand.</p> <p>(h) A person who has committed an unlawful act in relation to the Medicaid program in this state has submitted to the jurisdiction of this state and personal service of an investigative demand under this section may be made on the person outside of this state.</p> <p>(i) This section does not limit the authority of the attorney general to conduct investigations or to access a person's documentary materials or other information under another state or federal law, the Texas Rules of Civil Procedure, or the Federal Rules of Civil Procedure.</p> <p>(j) If a person fails to comply with an investigative demand, or if copying and reproduction of the documentary material demanded cannot be satisfactorily accomplished and the person refuses to surrender the documentary material, the attorney general may file in a district court of Travis County a petition for an order to enforce the investigative demand.</p> <p>(k) If a petition is filed under Subsection (j), the court may determine the matter presented and may enter an order to implement this section.</p> <p>(l) Failure to comply with a final order entered under Subsection (k) is punishable by contempt.</p>
--	--

(m) A final order issued by a district court under Subsection (k) is subject to appeal to the supreme court. **(Tex. Hum. Res. Code § 36.054)**

Attorney General as Relator in Federal Action

To the extent permitted by [31 U.S.C. Sections 3729-3733](#), the attorney general may bring an action as relator under [31 U.S.C. Section 3730](#) with respect to an act in connection with the Medicaid program for which a person may be held liable under [31 U.S.C. Section 3729](#). The attorney general may contract with a private attorney to represent the state under this section. **(Tex. Hum. Res. Code § 36.055)**

Action by Private Person Authorized

(a) A person may bring a civil action for a violation of Section 36.002 for the person and for the state. The action shall be brought in the name of the person and of the state.

(b) In an action brought under this subchapter, a person who violates Section 36.002 is liable as provided by Section 36.052. **(Tex. Hum. Res. Code § 36.101)**

Initiation of Action

(a) A person bringing an action under this subchapter shall serve a copy of the petition and a written disclosure of substantially all material evidence and information the person possesses on the attorney general in compliance with the Texas Rules of Civil Procedure.

(b) The petition shall be filed in camera and, except as provided by Subsection (c-1) or (d), shall remain under seal until at least the 180th day after the date the petition is filed or the date on which the state elects to intervene, whichever is earlier. The petition may not be served on the defendant until the court orders service on the defendant.

(c) The state may elect to intervene and proceed with the action not later than the 180th day after the date the attorney general receives the petition and the material evidence and information.

(c-1) At the time the state intervenes, the attorney general may file a motion with the court requesting that the petition remain under seal for an extended period.

(d) The state may, for good cause shown, move the court to extend the 180-day deadline under Subsection (b) or (c). A motion under this subsection may be supported by affidavits or other submissions in camera.

(e) An action under this subchapter may be dismissed before the end of the period during which the petition remains under seal only if the court and the attorney general consent in writing to the dismissal and state their reasons for consenting.

(Tex. Hum. Res. Code § 36.102)

Answer by Defendant

A defendant is not required to file in accordance with the Texas Rules of Civil Procedure an answer to a petition filed under this subchapter until the petition is unsealed and served on the

defendant. **(Tex. Hum. Res. Code § 36.103)**

Continuation or Dismissal of Action Based on State Decision

(a) Not later than the last day of the period prescribed by Section 36.102(c) or an extension of that period as provided by Section 36.102(d), the state shall:

- (1) proceed with the action; or
- (2) notify the court that the state declines to take over the action.

(b) If the state declines to take over the action, the court shall dismiss the action. **(Tex. Hum. Res. Code § 36.104)**

Representation of State by Private Attorney

The attorney general may contract with a private attorney to represent the state in an action under this subchapter with which the state elects to proceed. **(Tex. Hum. Res. Code § 36.105)**

Intervention by Other Parties Prohibited

A person other than the state may not intervene or bring a related action based on the facts underlying a pending action brought under this subchapter. **(Tex. Hum. Res. Code § 36.106)**

Rights of Parties if State Continues Action

(a) If the state proceeds with the action, the state has the primary responsibility for prosecuting the action and is not bound by an act of the person bringing the action. The person bringing the action has the right to continue as a party to the action, subject to the limitations set forth by this section.

(b) The state may dismiss the action notwithstanding the objections of the person bringing the action if:

- (1) the attorney general notifies the person that the state has filed a motion to dismiss; and
- (2) the court provides the person with an opportunity for a hearing on the motion.

(c) The state may settle the action with the defendant notwithstanding the objections of the person bringing the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. On a showing of good cause, the hearing may be held in camera.

(d) On a showing by the state that unrestricted participation during the course of the litigation by the person bringing the action would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may impose limitations on the person's participation, including:

- (1) limiting the number of witnesses the person may call;
- (2) limiting the length of the testimony of witnesses called by the person;
- (3) limiting the person's cross-examination of witnesses; or
- (4) otherwise limiting the participation by the person in the

	<p>litigation.</p> <p>(e) On a showing by the defendant that unrestricted participation during the course of the litigation by the person bringing the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation. (Tex. Hum. Res. Code § 36.107)</p> <p>Stay of Certain Discovery</p> <p>(a) On a showing by the state that certain actions of discovery by the person bringing the action would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the discovery for a period not to exceed 60 days.</p> <p>(b) The court shall hear a motion to stay discovery under this section in camera.</p> <p>(c) The court may extend the period prescribed by Subsection (a) on a further showing in camera that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and that any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings. (Tex. Hum. Res. Code § 36.108)</p> <p>Pursuit of Alternate Remedy by State</p> <p>(a) Notwithstanding Section 36.101, the state may elect to pursue the state's claim through any alternate remedy available to the state, including any administrative proceeding to determine an administrative penalty. If an alternate remedy is pursued in another proceeding, the person bringing the action has the same rights in the other proceeding as the person would have had if the action had continued under this subchapter.</p> <p>(b) A finding of fact or conclusion of law made in the other proceeding that has become final is conclusive on all parties to an action under this subchapter. For purposes of this subsection, a finding or conclusion is final if:</p> <ol style="list-style-type: none"> (1) the finding or conclusion has been finally determined on appeal to the appropriate court; (2) no appeal has been filed with respect to the finding or conclusion and all time for filing an appeal has expired; or (3) the finding or conclusion is not subject to judicial review. <p>(Tex. Hum. Res. Code § 36.109)</p> <p>Award to Private Plaintiff</p> <p>(a) If the state proceeds with an action under this subchapter, the person bringing the action is entitled, except as provided by Subsection (b), to receive at least 10 percent but not more than 25 percent of the proceeds of the action, depending on the extent to which the person substantially contributed to the prosecution of the action.</p> <p>(b) If the court finds that the action is based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to</p>
--	--

allegations or transactions in a criminal or civil hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award the amount the court considers appropriate but not more than seven percent of the proceeds of the action. The court shall consider the significance of the information and the role of the person bringing the action in advancing the case to litigation.

(c) A payment to a person under this section shall be made from the proceeds of the action. A person receiving a payment under this section is also entitled to receive from the defendant an amount for reasonable expenses, reasonable attorney's fees, and costs that the court finds to have been necessarily incurred. The court's determination of expenses, fees, and costs to be awarded under this subsection shall be made only after the defendant has been found liable in the action.

(d) In this section, "proceeds of the action" includes proceeds of a settlement of the action. **(Tex. Hum. Res. Code § 36.110)**

Reduction of Award

(a) If the court finds that the action was brought by a person who planned and initiated the violation of Section 36.002 on which the action was brought, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action the person would otherwise receive under Section 36.110, taking into account the person's role in advancing the case to litigation and any relevant circumstances pertaining to the violation.

(b) If the person bringing the action is convicted of criminal conduct arising from the person's role in the violation of Section 36.002, the court shall dismiss the person from the civil action and the person may not receive any share of the proceeds of the action. A dismissal under this subsection does not prejudice the right of the state to continue the action. **(Tex. Hum. Res. Code § 36.111)**

Award to Defendant for Frivolous Action

Chapter 105, Civil Practice and Remedies Code, applies in an action under this subchapter with which the state proceeds **(Tex. Hum. Res. Code § 36.112)**

Certain Actions Barred

(a) A person may not bring an action under this subchapter that is based on allegations or transactions that are the subject of a civil suit or an administrative penalty proceeding in which the state is already a party.

(b) A person may not bring an action under this subchapter that is based on the public disclosure of allegations or transactions in a criminal or civil hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, unless the person bringing the action is an original source of the information. In this subsection, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has

	<p>voluntarily provided the information to the state before filing an action under this subchapter that is based on the information. (Tex. Hum. Res. Code § 36.113)</p> <p>State Not Liable for Certain Expenses The state is not liable for expenses that a person incurs in bringing an action under this subchapter. (Tex. Hum. Res. Code § 36.114)</p> <p>Sovereign Immunity Not Waived Except as provided by Section 36.112, this subchapter does not waive sovereign immunity. (Tex. Hum. Res. Code § 36.116)</p> <p>Attorney General Compensation The office of the attorney general may retain a reasonable portion of recoveries under this subchapter, not to exceed amounts specified in the General Appropriations Act, for the administration of this subchapter. (Tex. Hum. Res. Code § 36.117)</p> <p>Revocation of Licenses (a) In this section: (1) "License" means a license, certificate, registration, permit, or other authorization that: (A) is issued by a licensing authority; (B) is subject before expiration to suspension, revocation, forfeiture, or termination by an issuing licensing authority; and (C) must be obtained before a person may practice or engage in a particular business, occupation, or profession. (2) "Licensing authority" means: (A) the Texas State Board of Medical Examiners; (B) the State Board of Dental Examiners; (C) the Texas State Board of Examiners of Psychologists; (D) the Texas State Board of Social Worker Examiners; (E) the Board of Nurse Examiners; (F) the Texas Board of Physical Therapy Examiners; (G) the Texas Board of Occupational Therapy Examiners; or (H) another state agency authorized to regulate a provider who receives or is eligible to receive payment for a health care service under the Medicaid program. (b) A licensing authority shall revoke a license issued by the authority to a person if the person is convicted of a felony under Section 35A.02, Penal Code. In revoking the license, the licensing authority shall comply. (Tex. Hum. Res. Code §36.132)</p>
<p>Whistleblower Protections</p>	<p>Retaliation by Employer Against Person Bringing Suit Prohibited (a) A person who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms of employment by the person's employer because of a lawful act taken by the person in furtherance of an</p>

	<p>action under this subchapter, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this subchapter, is entitled to:</p> <p>(1) reinstatement with the same seniority status the person would have had but for the discrimination; and</p> <p>(2) not less than two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.</p> <p>(b) A person may bring an action in the appropriate district court for the relief provided in this section. (Tex. Hum. Res. Code § 36.115)</p>
STATE	VIRGINIA
Defined Terms	<p>"Claim" means any request or demand, whether under a contract or otherwise, for money or property that is made to a contractor, grantee, or other recipient if the Commonwealth provides any portion of the money or property that is requested or demanded, or if the Commonwealth will reimburse such contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.</p> <p>(Va. Code Ann. § 8.01-216.2)</p>
Unlawful Acts/Penalties	<p>False Claims, Generally</p> <p>Any person who:</p> <p>(1) Knowingly presents, or causes to be presented, to an officer or employee of the Commonwealth a false or fraudulent claim for payment or approval;</p> <p>(2) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Commonwealth;</p> <p>(3) Conspires to defraud the Commonwealth by getting a false or fraudulent claim allowed or paid;</p> <p>(4) Has possession, custody, or control of property or money used, or to be used, by the Commonwealth and, intending to defraud the Commonwealth or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;</p> <p>(5) Authorizes to make or deliver a document certifying receipt of property used, or to be used, by the Commonwealth and, intending to defraud the Commonwealth, makes or delivers the receipt without completely knowing that the information on the receipt is true;</p> <p>(6) Knowingly buys or receives as a pledge of an obligation or debt, public property from an officer or employee of the Commonwealth who lawfully may not sell or pledge the property; or</p> <p>(7) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Commonwealth; shall be liable to the Commonwealth for a civil</p>

penalty of not less than \$ 5,000 and not more than \$ 10,000, plus three times the amount of damages sustained by the Commonwealth. If a court finds that (i) the person committing the violation of this section furnished officials of the Commonwealth responsible for investigating false claims violations with all information known to the person about the violation within 30 days after the date on which the defendant first obtained the information; (ii) such person fully cooperated with any Commonwealth investigation of such violation; (iii) at the time such person furnished the Commonwealth with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation, and (iv) the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than two times the amount of damages that the Commonwealth sustains because of the act of the person. A person violating this section shall also be liable to the Commonwealth for the costs of a civil action brought to recover any such penalty or damages.

For purposes of this section, the terms "*knowing*" and "*knowingly*" mean that a person, with respect to information (i) has actual knowledge of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

(Va. Code Ann. § 8.01-216.3)

Attorney General; Investigation, Civil Action

The Attorney General shall investigate any violation of § 8.01-216.3. If the Attorney General finds that a person has violated or is violating § 8.01-216.3, the Attorney General may bring a civil action under this section. **(Va. Code Ann. § 8.01-216.4)**

Civil Actions Filed by Private Persons; Commonwealth May Intervene

A. A person may bring a civil action for a violation of § 8.01-216.3 for the person and for the Commonwealth. The action shall be brought in the name of the Commonwealth. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

B. A copy of the motion for judgment and written disclosure of substantially all material evidence and information the person possesses shall be served on the Commonwealth. The motion for judgment shall be filed in camera, shall remain under seal for at least 120 days, and shall not be served on the defendant until the court so orders. The Commonwealth may elect to intervene and proceed with the action within 120 days after it receives both the motion for judgment and the material evidence and information.

C. The Commonwealth may, for good cause shown, move the court for extensions of the time during which the motion for judgment remains under seal. Any such motions may be

	<p>supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any motion for judgment filed under this section until twenty-one days after the motion for judgment is unsealed and served upon the defendant.</p> <p>D. Before the expiration of the 120-day period or any extensions obtained under subsection C, the Commonwealth shall proceed with the action, in which case the action shall be conducted by the Commonwealth, or notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to prosecute the action.</p> <p>E. When a person brings an action under this section, no person other than the Commonwealth may intervene or bring a related action based on the facts underlying the pending action. (Va. Code Ann. § 8.01-216.5)</p> <p>Rights of Private Plaintiff and Commonwealth</p> <p>A. If the Commonwealth proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations of this section.</p> <p>B. The Commonwealth may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the Commonwealth of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.</p> <p>C. The Commonwealth may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera. The Commonwealth may, for good cause shown, move the court for a partial lifting of the seal to facilitate the investigative process or settlement.</p> <p>D. Upon a showing by the Commonwealth that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Commonwealth's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as (i) limiting the number of witnesses the person may call; (ii) limiting the length of the testimony of such witnesses; (iii) limiting the person's cross-examination of witnesses; and (iv) otherwise limiting the participation by the person in the litigation.</p> <p>E. Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in</p>
--	---

	<p>the litigation.</p> <p>F. If the Commonwealth elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Commonwealth so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the Commonwealth's expense. When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Commonwealth to intervene at a later date upon a showing of good cause.</p> <p>G. Whether or not the Commonwealth proceeds with the action, upon a showing by the Commonwealth that certain actions of discovery by the person initiating the action would interfere with the Commonwealth's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than sixty days. Such a showing shall be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the Commonwealth has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.</p> <p>H. Notwithstanding the provisions of subsection B of § 8.01-216.5, the Commonwealth may elect to pursue its claim through any alternate remedy available to the Commonwealth, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this article. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to a court of competent jurisdiction of the Commonwealth, if the time for filing an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review. (Va. Code Ann. § 8.01-216.6)</p> <p>Award to Private Plaintiff</p> <p>A. Except as hereinafter provided, if the Commonwealth proceeds with an action brought by a person under § 8.01-216.5, such person shall receive at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one that the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Auditor of Public</p>
--	--

Accounts' report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under this section shall be made from the proceeds of the award. Any such person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

B. If the Commonwealth does not proceed with an action, the person bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five percent and not more than thirty percent of the proceeds of the award or settlement and shall be paid out of the proceeds. Such person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

C. Whether or not the Commonwealth proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of § 8.01-216.3 upon which the action was brought, or if the person bringing the action is convicted of criminal conduct arising from his role in the violation of § 8.01-216.3, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the Commonwealth to continue the action.

D. If the Commonwealth does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment. **(Va. Code Ann. § 8.01-216.7)**

**Certain Actions Barred; Relief From Employment
Discrimination**

No court shall have jurisdiction over an action brought under § 8.01-216.5 based on information discovered by a present or former employee of the Commonwealth during the course of his employment unless that employee first, in good faith, exhausted existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels and unless the Commonwealth failed to act on the information provided within a reasonable period of time.

No court shall have jurisdiction over any action brought under this article by an inmate incarcerated within a state or local correctional facility as defined in § 53.1-1.

	<p>No court shall have jurisdiction over an action brought under this article against any department, authority, board, bureau, commission, or agency of the Commonwealth, any political subdivision of the Commonwealth, a member of the General Assembly, a member of the judiciary, or an exempt official if the action is based on evidence or information known to the Commonwealth when the action was brought. For purposes of this section, "<i>exempt official</i>" means the Governor, Lieutenant Governor, Attorney General and the directors or members of any department, authority, board, bureau, commission or agency of the Commonwealth or any political subdivision of the Commonwealth.</p> <p>In no event may a person bring an action under this article that is based upon allegations or transactions that are the subject of a civil suit or an administrative proceeding in which the Commonwealth is already a party.</p> <p>No court shall have jurisdiction over an action under this article based upon the public disclosure of allegations or transactions in a criminal, civil or administrative hearing, in a legislative, administrative, or Auditor of Public Accounts' report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information. For purposes of this section, "<i>original source</i>" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Commonwealth before filing an action under this article that is based on the information.</p> <p>The Commonwealth shall not be liable for expenses a person incurs in bringing an action under this article.</p> <p>Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his employer because he has opposed any practice referenced in § 8.01-216.3 or because he has initiated, testified, assisted, or participated in any manner in any investigation, action or hearing under this article, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in a court of competent jurisdiction for the relief provided in this section. (Va. Code Ann. § 8.01-216.8)</p> <p>Procedure; Statute of Limitations</p> <p>A subpoena requiring the attendance of a witness at a trial or hearing conducted under this article may be served at any place in the Commonwealth.</p>
--	--

A civil action under § 8.01-216.5 may not be brought (i) more than six years after the date on which the violation is committed or (ii) more than three years after the date when facts material to the right of action are known or reasonably should have been known by the official of the Commonwealth charged with responsibility to act in the circumstances, but in that event no more than ten years after the date on which the violation is committed, whichever occurs last.

In any action brought under § 8.01-216.5, the Commonwealth shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

Notwithstanding any other provision of law, a final judgment rendered in favor of the Commonwealth in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action that involves the same transaction as in the criminal proceeding and which is brought under § 8.01-216.5. **(Va. Code Ann. § 8.01-216.9)**

Civil Investigative Demands; Issuance

A. Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General may, before commencing a civil proceeding under this article, issue in writing and cause to be served upon such person, a civil investigative demand requiring such person (i) to produce such documentary material for inspection and copying, (ii) to answer in writing written interrogatories with respect to such documentary material or information, (iii) to give oral testimony concerning such documentary material or information, or (iv) to furnish any combination of such material, answers, or testimony.

B. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General shall cause to be served, in any manner authorized by this article, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

(Va. Code Ann. § 8.01-216.10)

Civil Investigative Demands; Contents and Deadlines

Each civil investigative demand issued under this article shall state the nature of the conduct constituting the alleged violation of a false claims law that is under investigation, and the applicable provision of law alleged to be violated.

If such demand is for the production of documentary material, the demand shall (i) describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified; (ii) prescribe a return date for each such class that will provide a reasonable period of time within which the material so demanded may be

	<p>assembled and made available for inspection and copying; and (iii) identify the false claims law investigator to whom such material shall be made available.</p> <p>If such demand is for answers to written interrogatories, the demand shall (i) set forth with specificity the written interrogatories to be answered; (ii) prescribe dates at which time answers to written interrogatories shall be submitted; and (iii) identify the false claims law investigator to whom such answers shall be submitted.</p> <p>If such demand is for the giving of oral testimony, the demand shall (i) prescribe a date, time, and place at which oral testimony shall be commenced; (ii) identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted; (iii) specify that such attendance and testimony are necessary to the conduct of the investigation; (iv) notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and (v) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry that will be taken pursuant to the demand.</p> <p>Any civil investigative demand that is an express demand for any product of discovery shall not be returned or returnable until twenty-one days after a copy of such demand has been served upon the person from whom the discovery was obtained.</p> <p>The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this article shall be a date that is not less than seven days after the date on which the demand is received, unless the Attorney General determines that exceptional circumstances are present that warrant the commencement of such testimony within a lesser period of time.</p> <p>The Attorney General shall not authorize the issuance of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary. (Va. Code Ann. § 8.01-216.11)</p> <p>Civil Investigative Demands; Protected Material or Information</p> <p>A civil investigative demand issued under this article shall not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under (i) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of this Commonwealth to aid in a grand jury investigation or (ii) the standards applicable to discovery requests under the Rules of the Supreme Court of Virginia, to the extent that the application of such standards to any such</p>
--	---

	<p>demand is appropriate and consistent with the provisions and purposes of this article.</p> <p>Any such demand that is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law, other than this section, preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege that the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.</p> <p>(Va. Code Ann. § 8.01-216.12)</p> <p>Civil Investigative Demands; Service and Jurisdiction</p> <p>Any civil investigative demand issued under this article may be served by an investigator, or by any person authorized to serve process on individuals in the Commonwealth.</p> <p>Any such demand or any petition filed under this article may be served upon any person who is not found within Virginia in such manner as the Rules of the Supreme Court of Virginia or the Code of Virginia prescribe for service of process outside Virginia. To the extent that the courts of this Commonwealth can assert jurisdiction over any such person consistent with due process, the courts of this Commonwealth shall have the same jurisdiction to take any action respecting compliance with the provisions of this article by any such person that the court would have if such person were personally within the jurisdiction of the court.</p> <p>Service of any civil investigative demand issued under this article or of any petition filed under this article may be made upon a partnership, corporation, association, or other legal entity by (i) delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity; (ii) delivering an executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or (iii) depositing an executed copy of such demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.</p> <p>Service of any such demand or petition may be made upon any natural person by (i) delivering an executed copy of such demand or petition to the person, or (ii) depositing an executed copy of such demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.</p> <p>A verified return by the individual serving any civil investigative</p>
--	---

demand issued under this article or any petition filed under this article setting forth the manner of such service shall be proof of service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand. **(Va. Code Ann. § 8.01-216.13)**

Civil Investigative Demands; Documentary Material

The production of documentary material in response to a civil investigative demand served under this article shall be made under a sworn certificate, in such form as the demand designates, by (i) in the case of a natural person, the person to whom the demand is directed, or (ii) in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person. The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the investigator identified in the demand.

Any person upon whom any civil investigative demand for the production of documentary material has been served shall make such material available for inspection and copying to the investigator identified in such demand at the principal place of business of such person, or at such other place as the investigator and the person thereafter may agree and prescribe in writing, or as the court may direct. Such material shall be made available on the return date specified in such demand, or on such later date as the investigator may prescribe in writing. Such person may, upon written agreement between the person and the investigator, substitute copies for originals of all or any part of such material. **(Va. Code Ann. § 8.01-216.14)**

Civil Investigative Demands; Interrogatories

Each inquiry in a civil investigative demand served under this article shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the demand designates, by (i) in the case of a natural person, the person to whom the demand is directed, or (ii) in the case of a person other than a natural person, the person or persons responsible for answering each inquiry. If any inquiry is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished. **(Va. Code Ann. § 8.01-216.15)**

Civil Investigative Demands; Oral Examinations

A. The examination of any person pursuant to a civil investigative demand for oral testimony served under this article

	<p>shall be taken before an officer authorized to administer oaths under the laws of this Commonwealth or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the Attorney General. This section shall not preclude the taking of testimony by any means authorized by and in a manner consistent with the Rules of the Supreme Court of Virginia.</p> <p>B. The investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney for the Commonwealth, any person who may be agreed upon by the attorney for the Commonwealth and the person giving the testimony, the officer before whom the testimony is to be taken, and any court reporter taking such testimony.</p> <p>C. The oral testimony of any person taken pursuant to a civil investigative demand served under this article shall be taken in the county or city within which such person resides, is found, or transacts business or in such other place as may be agreed upon by the investigator conducting the examination and such person.</p> <p>D. When the testimony is fully transcribed, the investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance that the witness desires to make shall be entered and identified upon the transcript by the officer or the investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days after being afforded a reasonable opportunity to examine it, the officer or the investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons, if any, given therefor.</p> <p>E. The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the Attorney General.</p> <p>F. Upon payment of reasonable charges therefor, the investigator shall furnish a copy of the transcript to the witness</p>
--	--

	<p>only, except that the Attorney General may, for good cause, limit such witness to inspection of the official transcript of the witness' testimony.</p> <p>G. Any person compelled to appear for oral testimony under a civil investigative demand may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege. Such person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the circuit court for an order compelling such person to answer such question. If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with applicable law.</p> <p>H. Any person appearing for oral testimony under a civil investigative demand issued under this article shall be entitled to the same fees and allowances paid to witnesses in the circuit court. (Va. Code Ann. § 8.01-216.16)</p> <p>Civil Investigative Demands; Custodian of Documents; Answers</p> <p>A. The Attorney General shall serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this article.</p> <p>B. An investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the Attorney General. The Attorney General shall take physical possession of such material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material.</p> <p>C. The Attorney General may cause the preparation of such copies of documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any investigator, or other officer or employee of the Attorney General or employee of the Department of State Police, who is authorized for such use by the Attorney General. Such material, answers, and transcripts may be used by any authorized investigator or other officer or employee in connection with the taking of oral testimony under this article.</p> <p>D. Except as otherwise provided in this section, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the Attorney General, shall be available for examination by any individual other than an investigator or other officer or employee</p>
--	---

of the Attorney General or employee of the Department of State Police authorized by the Attorney General. The prohibition on the availability of material, answers, or transcripts shall not apply if consent is given by the person who produced such material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for such material, consent is given by the person from whom the discovery was obtained. Nothing in this subsection is intended to prevent disclosure to the General Assembly, including any committee or subcommittee of the General Assembly, or to any other state agency for use by such agency in furtherance of its statutory responsibilities. Disclosure of information to any such other agency shall be allowed only upon application, made by the Attorney General to a circuit court, showing substantial need for the use of the information by such agency in furtherance of its statutory responsibilities.

E. While in the possession of the Attorney General and under such reasonable terms and conditions as the Attorney General shall prescribe, (i) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by a representative of that person authorized by that person to examine such material and answers, and (ii) transcripts of oral testimony shall be available for examination by the person who produced such testimony or by a representative of that person authorized by that person to examine such transcripts.

F. Any attorney employed by the Office of the Attorney General designated to appear before any court, grand jury, or state agency in any case or proceeding may use any documentary material, answers to interrogatories, or transcripts of oral testimony in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered that have not passed into the control of the court, grand jury, or agency through introduction into the record of such case or proceeding.

G. If any documentary material has been produced by any person in the course of any investigation pursuant to a civil investigative demand under this article, and (i) any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any state agency involving such material, has been completed, or (ii) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the Attorney General shall, upon written request of the person who produced such material, return to such person any material, other than copies furnished to the investigator, or made for the Attorney General that has not passed into the control of any court, grand jury, or agency through introduction into the record

of such case or proceeding. (Va. Code Ann. § 8.01-216.17)

Civil Investigative Demands; Judicial Proceedings for Noncompliance

A. Whenever any person fails to comply with any civil investigative demand issued under this article, or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender the material, the Attorney General may file in the appropriate circuit court for the county or city in which such person resides, is found, or transacts business, and serve upon such person a petition for a court order for the enforcement of the civil investigative demand.

B. Any person who has received a civil investigative demand issued under this article may file, in the circuit court of any county or city within which such person resides, is found, or transacts business, and serve upon the investigator identified in such demand a petition for an order of the court to modify or set aside the demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the circuit court of the county or city in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this section shall be filed (i) within twenty-one days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or (ii) within such longer period as may be prescribed in writing by any investigator identified in the demand.

C. The petition shall specify each ground upon which the petitioner relies in seeking relief, and may be based upon any failure of the demand to comply with the provisions of this article or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

D. In the case of any civil investigative demand issued under this article that is an express demand for any product of discovery, the person from whom such discovery was obtained may file, in the circuit court of the county or city in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any investigator identified in the demand and upon the recipient of the demand a petition for a court order to modify or set aside those portions of the demand requiring production of any such product of discovery. Any petition under this subsection shall be filed (i) within twenty-one days after the date of service of the civil investigative demand or at any time before the return date specified in the demand, whichever date is earlier, or (ii) within such longer period as may be prescribed in writing by any investigator identified in the

	<p>demand.</p> <p>E. The petition shall specify each ground upon which the petitioner relies in seeking relief and may be based upon any failure of the demand from which relief is sought to comply with the provisions of this article, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.</p> <p>F. At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given by any person in compliance with any civil investigative demand issued under this article, such person, and in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the circuit court of the county or city within which the office of such custodian is situated, and serve upon such custodian a petition for a court order to require the performance by the custodian of any duty imposed upon the custodian by this section. Whenever any petition is filed in any circuit court under this section, the court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal in the same manner as appeals of other final orders in civil matters. Any disobedience of any final order entered under this section by any court shall be punished as contempt of the court.</p> <p>G. Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under this article shall be exempt from disclosure under the Virginia Administrative Process Act (§ 2.2-4000 et seq.). (Va. Code Ann. § 8.01-216.18)</p> <p>Application of the Rules of the Supreme Court The Rules of the Supreme Court of Virginia shall apply to all proceedings under this article, except when those Rules are inconsistent with this article. (Va. Code Ann. § 8.01-216.19)</p>
<p>Whistleblower Protections</p>	<p>Certain Actions Barred; Relief from Employment Discrimination</p> <p>A private person may bring suit for violations of 8.01-216.3. Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his employer because he has opposed any practice referenced in 8.01-216.3 or because he has initiated, testified, assisted, or participated in any manner in any investigation, action or hearing under this article, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, two times the amount of back pay, interest on the</p>

	back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in a court of competent jurisdiction for the relief provided in this section. (Va. Code Ann. § 8.01-216.8)
STATE	WEST VIRGINIA
Defined Terms	“Claim” means an application for payment for goods or services provided under the medical programs of the Department of Welfare. (W. Va. Code § 9-7-2)
Unlawful Acts/ Penalties	<p>False Statements or Representations in Applications for Medical Assistance</p> <p>(a) A person shall not knowingly make or cause to be made a false statement or false representation of any material fact in an application for medical assistance under the medical programs of the department of welfare.</p> <p>(b) A person shall not knowingly make or cause to be made a false statement or false representation of any material fact necessary to determine the rights of any other person to medical assistance under the medical programs of the department of welfare.</p> <p>(c) A person shall not knowingly and intentionally conceal or fail to disclose any fact with the intent to obtain medical assistance under the medical programs of the department of welfare to which the person or any other person is not entitled.</p> <p><u>Penalty:</u> Any person found to be in violation of subsection (a), (b) or (c) above shall be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years, or shall be fined not to exceed ten thousand dollars or both fined and imprisoned as provided. (W. Va. Code § 9-7-4)</p> <p>Bribery, False Claims, and Conspiracy</p> <p>(a) A person shall not solicit, offer or receive any remuneration, including any kickback, rebate or bribe, directly or indirectly, with the intent of causing an expenditure of moneys from the medical services fund [§ 9-4-2] which expenditure is not authorized by applicable laws or rules and regulations governing said medical services fund.</p> <p>(b) A person shall not make or present or cause to be made or presented to the department of welfare a claim under the medical programs of the department of welfare knowing the claim to be false, fraudulent or fictitious.</p> <p>(c) A person shall not enter into an agreement, combination or conspiracy to obtain or aid another to obtain the payment or allowance of a false, fraudulent or fictitious claim under the medical programs of the department of welfare.</p> <p><u>Penalty:</u> Any person found to be in violation of (a) through (c) above shall be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years or shall be fined not to exceed \$10,000, or both fined and</p>

	<p>imprisoned as provided. (W. Va. Code § 9-7-5)</p> <p>Additional Penalties Any person, firm, corporation or other entity which willfully, by means of a false statement or representation, or by concealment of any material fact, or by other fraudulent scheme, device or artifice on behalf of himself, itself, or others, obtains or attempts to obtain benefits or payments or allowances under the medical programs of the department of welfare to which he or it is not entitled, or, in a greater amount than that to which he or it is entitled, shall be liable to the department of welfare in an amount equal to three times the amount of such benefits, payments or allowances to which he or it is not entitled, and shall be liable for the payment of reasonable attorney fees and all other fees and costs of litigation. No criminal action or indictment need be brought against any person, firm, corporation or other entity as a condition for establishing civil liability hereunder. (W.Va. Code § 9-7-6)</p> <p>The remedies and penalties provided in this article governing the operation of the medical programs of the department of welfare are in addition to those remedies and penalties provided elsewhere by law. (W.Va. Code § 9-7-8)</p>
Whistleblower Protections	There are no specific whistleblower protections in West Virginia's above described laws.