

RÉSUMÉ DIGEST

ACT 206 (HB 560)

2025 Regular Session

Egan

New law provides relative to unlawful acts, procedures, and penalties arising out of fraudulent or false claims under Medicaid.

Existing law defines certain terms.

New law repeals the definition of "billing agent", "misrepresentation", "ineligible recipient", "recoupment", and "payment".

Existing law provides that the secretary of the La. Department of Health (LDH) or the attorney general may institute an action involving Medicaid fraud and that either party may control the action pursuant to an agreement.

New law retains existing law and provides that the secretary of LDH may only pursue an action under existing law if the secretary first refers the matter to the attorney general and the attorney general notifies the secretary that he declines to proceed with the action.

New law clarifies that while the attorney general or the secretary of LDH may bring an action for Medicaid fraud or abuse, either entity shall bring an action on behalf of the state, and the state shall be the proper party in the action.

New law makes changes throughout new law to reflect the use of "state" when describing secretary and attorney general as a party to a legal action.

Prior law authorized the attorney general or the secretary to institute a civil action against an entity or individual for fraudulent or unlawful actions relative to the medical assistance programs commonly known as Medicaid.

New law states that the attorney general shall diligently investigate instances of Medicaid fraud or abuse.

Existing law provides that no person shall make a false statement about a payment to Medicaid to knowingly conceal, decrease, or avoid such payment.

New law adds that no person shall obtain or attempt to obtain payment for a false or fraudulent claim to Medicaid.

Prior law provided that no person shall conspire to defraud Medicaid.

New law modifies prior law to add that no person shall conspire to commit an act of Medicaid fraud listed in existing law.

New law adds that no person shall make or induce a false statement or a misrepresentation of a material fact concerning the conditions or operation of a healthcare facility in order to obtain certification or recertification for the purposes of Medicaid payments.

New law adds that no person or healthcare provider shall make or induce a false statement or a misrepresentation of a material fact concerning information the person is required to produce by federal or state law, rule, regulation, or provider.

Prior law stated that no person shall knowingly submit a claim for goods, services, or supplies to Medicaid that are medically unnecessary or of a substandard quality or quantity.

New law states that no person shall knowingly submit a claim to Medicaid for reimbursement for any of the following:

- (1) A service or product that has not been approved or prescribed by a treating healthcare provider.

- (2) A service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the healthcare discipline.
- (3) A product that is adulterated, debased, mislabeled, or otherwise made inappropriate.

New law prohibits a managed care organization or a subcontractor to a managed care organization that contracts with the state to provide Medicaid to eligible individuals from knowingly doing any of the following:

- (1) Failing to provide a healthcare benefit or service to an individual that the organization is required to provide by its contract with LDH.
- (2) Failing to provide information to LDH, the attorney general, legislative auditor, or other appropriate state agency that is required by law, rule, or contractual provision.
- (3) Engaging in fraudulent activity in connection with the enrollment of an individual eligible under Medicaid or in connection with marketing the organization's services to a Medicaid-eligible individual.

New law states that no person shall make a claim under Medicaid and knowingly misrepresent the identification of the healthcare provider who actually provided the services when such identification is necessary to obtain payment for the claim.

Prior law stated that the state shall not bring a civil action unless the amount of actual damages is \$1,000 or more.

New law repeals prior law.

Prior law stated that recovery of damages against an individual or entity that commits Medicaid fraud shall equal the difference from the amount that Medicaid paid or would have paid and the amount that should have been paid plus interest from the date the damage occurred unless the violator is a managed care organization or healthcare provider under a voucher program. Prior law further stated that actual damages for a violator that is a managed care organization or healthcare provider under a voucher program is determined in accordance with the violator's provider agreement.

New law repeals prior law.

Prior law authorized the court to reduce damages to not less than twice the actual damages or any recovery imposed by existing law upon the request of the attorney general if all of the following circumstances are found to be applicable:

- (1) The violator provided all the information known to him to the attorney general or secretary no later than 30 days after the violator first obtained the information.
- (2) The violator cooperated fully with all federal or state investigations concerning the specific allegation.
- (3) No criminal, civil, or departmental investigation or proceeding had been commenced on the alleged violation by the attorney general or secretary.

New law modifies prior law to add the requirement that the violator did not have actual knowledge of the existence of an investigation by the state into such a violation.

Existing law states that proof by a preponderance of the evidence of a false or fraudulent claim or illegal remuneration shall be deemed to exist under the following circumstances:

- (1) The defendant has pled guilty to, been convicted, or entered a plea of nolo contendere to a criminal charge in any federal or state court to charges arising out of the same circumstances as would be a violation of existing law.

- (2) If an order has been rendered against a defendant, finding the defendant to have violated existing law.

New law adds to existing law that if a final judgment is rendered in favor of the state in any criminal proceeding charging fraud or false statements that proof of a false or fraudulent claim will be deemed to exist, notwithstanding any other contrary provision of law, rules of criminal procedure, or the rules of evidence, and will prevent the defendant from denying the essential elements of the offense in any action involving the same transaction as in the criminal proceeding in any action brought under existing law.

Prior law defined "material".

New law repeals prior law.

Existing law permits a private person to institute a civil action, known as a qui tam action, in the courts of this state on behalf of the state and himself to seek recovery for a violation related to Medicaid fraud.

Existing law provides that the attorney general may intervene and become a party in a qui tam action.

New law provides that the action may be dismissed only if the court and the attorney general give written consent to the dismissal and reasons for consenting.

Prior law required the court to dismiss a qui tam action in accordance with existing law, unless opposed by the state, if substantially the same allegations or transactions as alleged in the action were publicly disclosed in any of the following:

- (1) A criminal, civil, or administrative hearing in which the state was a party.
- (2) The news media, unless the action is brought by the attorney general or the qui tam plaintiff, is an original source of information.

New law modifies prior law adding a requirement that court to dismiss a qui tam action unless the qui tam action is brought by the state or the qui tam plaintiff is an original source of the information.

Prior law provided that a qui tam action shall be captioned: "Medical Assistance Programs Ex. Rel.: [insert name of qui tam plaintiff(s)] v. [insert name of defendant(s)]".

New law modifies prior law providing that a qui tam action shall be captioned: "State of Louisiana Ex. Rel.: [insert name of qui tam plaintiff(s)] v. [insert name of defendant(s)]".

Prior law provided that the qui tam plaintiff and his counsel shall cooperate fully with the secretary and attorney general during the pendency of a qui tam action.

New law repeals prior law.

New law provides that upon a showing by the state that during the course of the litigation by a qui tam plaintiff that the qui tam action would interfere with or unduly delay the state's prosecution of the case, or it would be repetitious, irrelevant, or the purpose of harassment, the court may impose limitations on the qui tam plaintiff's participation in the action.

Prior law provided that if the attorney general does not intervene in a qui tam action, the qui tam plaintiff may proceed with the qui tam action, absent a showing by the attorney general that the proceeding would adversely affect the prosecution of any criminal actions or criminal investigations into the activities of the defendant. Prior law further provided that such a showing would be made in camera, confidentially, to the court who may stay the proceedings for no more than one year.

New law repeals prior law.

Prior law stated that the attorney general or secretary may settle a qui tam action over the objection of a qui tam plaintiff if the court determines, after a hearing, that the settlement is fair, adequate, and reasonable under the circumstances.

New law provides that the court may conduct a hearing in accordance with existing law in camera upon a showing of good cause to determine whether a settlement is fair, adequate, and reasonable under the circumstances.

New law states that if the state does not elect to proceed with the qui tam action, the qui tam plaintiff may continue the action, and, at the state's request, the qui tam plaintiff shall supply the state with all pleadings and copies of deposition transcripts at the state's expense.

Prior law stated that a finding by the court, in a qui tam action in which the attorney general or secretary do not intervene, that the qui tam plaintiff's claims were meritless or brought primarily for the purpose of harassment may be used by the defendant in the qui tam action or other civil proceeding to recover losses or damages sustained as a result of the qui tam plaintiff filing and pursuing such a qui tam action.

New law repeals prior law.

Prior law contained protections for employees and individuals who cooperate or take any lawful action in furtherance of civil or criminal action related to Medicaid fraud, commonly known as whistleblower protections. Prior law further provided a cause of action for an employee to seek relief for violations of the whistleblower protections.

New law repeals prior law.

Effective August 1, 2025.

(Amends R.S. 46:437.3(intro. para.), (11), (14), and (29), 437.5(B), 438.1(A) and (C)(1)(a) and (b), 438.3, 438.6(D)(3), 438.7(3), 439.1(A), (D), and (G), 439.2(A)(1), (2), (3), and (4)(b), (B)(1), (2), (3), (4)(a), and (5), and (E), and 439.4(A)(1), (C)(2), (F), and (G); Adds R.S. 46:437.3(31), 437.6(D), 437.7(E), 438.5(F), 438.8(B)(3); Repeals R.S. 46:437.3(7), (10), (15), (19), and (24), 438.6(A)(2) and (3), 438.8(D)(2), 439.1(F), 439.2(F), and 440.3)