



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 382** HLS 11RS 913

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 12, 2011	10:47 AM	Author: ANDERS
Dept./Agy.: DHH		
Subject:		Analyst: Shawn Hotstream

CIVIL/ACTIONS

OR FF RV See Note

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Provides relative to the Medical Assistance Program Integrity Law

Present law intends the secretary of DHH, the attorney general, and private citizens of Louisiana to be agents of the state of Louisiana with the ability, authority, and resources to pursue civil monetary penalties, liquidated damages, or other remedies to protect the fiscal and programmatic integrity of the medical assistance programs from health care providers and other persons who engage in fraud to obtain payments to which these providers or persons are not entitled.

Proposed law clarifies certain definitions, and additionally provides for the following changes to this law: 1) increases the civil monetary penalty from between \$5,000 to \$10,000 to \$5,500 to \$11,000 for each fraudulent claim, and requires the penalties to be adjusted according to the Federal Civil Penalties Inflation Adjustment Act; 2) provides for reduced damages under a waiver; 3) a court may dismiss a qui tam action if those allegations were publicly disclosed; 4) removes the inability of a public employee with the duty of reporting wrongdoing from bringing a qui tam action; **Continued on page 2**

EXPENDITURES	2011-12	2012-13	2013-14	2014-15	2015-16	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2011-12	2012-13	2013-14	2014-15	2015-16	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure. This bill does not place any additional duties or require any additional expenditures in the Attorney General’s Office or Department of Health and Hospitals. This bill amends Louisiana’s Medical Assistance Program Integrity Law (the states’ Medicaid False Claim Act), which regulates false claims and qui tam actions. The proposed bill specifically redefines a ‘claim’ to indicate that a claim may be based upon a request for payment from a coordinated care network or other managed care organization. Additionally, the bill changes the civil money penalty range from \$5,000 - \$10,000 to \$5,500 - to \$11,000 per violation and adjusts future penalty amounts based on the Federal Civil Penalties Inflation Adjustment Act of 1990. Furthermore, the bill intends to change the MAPIL to meet federal requirements imposed under 42 USC 1396(h) in order for the Department of Justice to receive increased state share of any recovery.

REVENUE EXPLANATION

Information received from the Department of Justice indicates this measure will result in additional federal revenue collections as the Medicaid Program will be able to retain 10% of the federal share (federal medical assistance percentage, or FMAP) of any Medicaid fraud recovery. In a recovery under the existing MAPIL, the state retains the state match portion of the payment and the federal matching portion of the claim recovery is returned to the federal government. This measure allows the state an increase in the state’s share of Medicaid recoveries (or 10% of the federal share) under MAPIL. The portion of the 10% that is related to actual damages (ie, the difference in what Medicaid paid and what Medicaid should have paid) would be reimbursed to DHH, and the portion of the 10% attributable to any additional recovery (ie, fines and penalties) would be deposited into the Medicaid Fraud Detection Fund and shared by both DHH and the AG’s office in accordance with R.S. 46:440.1.

Although projecting any future recoveries is not able to be determined, the Department of Justice, Medicaid Fraud Unit collected over \$98 M (over a three year period) in restitution for the Medicaid Program from actions under the MAPIL. Of this amount, approximately \$72.3 M was returned to the federal government (federal share). Under this law, the state would have retained 10% of the federal share, or approximately \$7.2 M over that time frame. **Continued on page 2**

Senate	Dual Referral Rules	House	
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}		<input type="checkbox"/> 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S}	<i>H. Gordon Monk</i>
		<input type="checkbox"/> 6.8(F)2 >= \$100,000 Annual SGF Cost {H&S}	
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}	H. Gordon Monk Legislative Fiscal Officer



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CONTINUED EXPLANATION from page one:

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5) specifies relief for any employee, contractor, or agent if they are discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment; 6) limits the civil action being brought to court to 3 years from the date the retaliation occurred; 7) filing requirements of the plaintiff; 8) authorizes the attorney general to move for extensions under certain conditions; and 9) changes the amount a court may award from 15% to up to 10% in certain circumstances.

REVENUE EXPLANATION: CONTINUED

In addition, this bill adds Coordinated Care Networks (the Medicaid programs managed care networks proposed to be implemented in FY 12) to the coverage of the Medical Assistance Program Integrity Law (MAPIL). Although DHH will pay a per member per month fee to the managed care contractor for providing health services and will not make payments directly to the health care providers, this measure ensures provider fraud can be addressed through the MAPIL even if the claim funds do not flow directly from the department to a provider committing a fraudulent act.

Senate

Dual Referral Rules

House

- ☐ 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}
- ☐ 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

- ☐ 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S}
- ☐ 6.8(F)2 >= \$100,000 Annual SGF Cost {H&S}
- ☐ 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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Dual Referral Rules

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- ☐ 6.8(F)2 >= \$100,000 Annual SGF Cost {H&S}
- ☐ 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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