
DIGEST

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Anders

HB No. 382

Abstract: Provides procedures for a qui tam action in the Medical Assistance Program Integrity Law.

Present law provides for the Medical Assistance Programs Integrity Law to combat and prevent fraud and abuse committed by some health care providers and others.

Proposed law retains present law and additionally defines "claim", "material", "obligation", and "original source".

Present law provides for civil monetary penalties to be imposed on the violator of not less than \$5,000 but not more than \$10,000 for each false claim.

Proposed law increases the penalties from \$5,000 to \$5,500 and from \$10,000 to \$11,000 and provides that the penalties shall be adjusted according to the federal penalties inflation law.

Present law provides that when a waiver is requested, the court may waive any recovery, except from actual damages.

Proposed law provides that the court may reduce to not less than twice the actual damages, if requested.

Present law provides that no court shall have jurisdiction over a qui tam action based on the public disclosure of allegations.

Proposed law provides that the court shall dismiss an action if the same allegations were publicly disclosed.

Present law provides that a public employee with a duty to report wrongdoing or who had access to records relative to the activities of a health care provider shall not bring a qui tam action.

Proposed law deletes present law.

Present law prohibits employers from discharging, demoting, suspending, or otherwise discriminating against a qui tam plaintiff.

Proposed law provides that any employee, contractor, or agent shall be entitled to all relief

necessary to make him whole if he is discharged, demoted, suspended, or discriminated against in any manner.

Proposed law provides that action may be brought in the appropriate state or federal district court and may not be brought more than three years after the date the retaliation occurred.

Present law requires the qui tam plaintiff to file a copy of his complaint with the attorney general before filing with the appropriate court and if more than one action arises out of the same information, the court shall dismiss any action filed more than 30 days after the first qui tam complaint.

Proposed law only requires that a copy of the complaint be served upon the attorney general in accordance with the rules of civil procedure, and only the attorney general or secretary may intervene or bring a related action based on the same facts.

Present law provides that the attorney general may request one 90-day extension for the complaint to remain under seal and not served on the defendant.

Proposed law provides that the attorney general may move the court for extensions during which the petition remains under seal.

Proposed law provides that any government intervention shall relate back to the date the complaint was filed, for prescription purposes.

Present law provides that the court may award less than 15% recovery if it finds that the allegations are not primarily based on information provided by the qui tam plaintiff.

Proposed law provides that if the court finds the allegations are based on information related to criminal, civil, or administrative hearings or the media, it may award a sum it considers appropriate, but in no case more than 10% of the proceeds.

Present law provides that if the qui tam plaintiff fails to comply with the procedures in present law, the court may dismiss the plaintiff after a contradictory hearing.

Proposed law deletes present law.

(Amends R.S. 46:437.3(6), 438.3(B) and (C), 438.6(C)(1)(intro. para.) and (a), 438.7(intro. para.), 439.1(D), (E), (F), and (G), 439.2(A) and (B)(1), and 439.4(A)(2) and (3) and (D); Adds R.S. 46:437.3(29) and (30) and 438.6(C)(3); Repeals R.S. 46:439.1(H) and (I) and 439.2(C))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Deleted a proposed law provision that specified that a claim could be based on a request or demand for payment from a coordinated care network, health maintenance organization, or any other type of managed care organization or entity, which received any medical assistance program funds for the purpose of managing or coordinating the health care of medical assistance programs recipients.