

Existing law (R.S. 46:437.3(6)) provides for the Medical Assistance Programs Integrity Law to combat and prevent fraud and abuse committed by some health care providers and others.

New law retains existing law and additionally defines "claim", "material", "obligation", and "original source".

Prior law (R.S. 46:438.3(B)) prohibited a person from knowingly engaging in misrepresentation or making, using, or causing to be made or used, a false record or statement to obtain payment for a false or fraudulent claim from the medical assistance programs' funds.

New law prohibits a person from knowingly engaging in misrepresentation or making, using, or causing to be made or used, a false record or statement material to a false or fraudulent claim.

Prior law (R.S. 46:438.6(C)(a)) provided for civil monetary penalties that could be imposed on the violator of not less than \$5,000 but not more than \$10,000 for each false claim.

New law increases the civil monetary penalties from \$5,000 to \$5,500 and from \$10,000 to \$11,000 and requires that they be imposed on a violator. Also provides that the penalties shall be adjusted according to the federal penalties inflation law.

Prior law (R.S. 46:438.7(into. para.)) provided that when a waiver was requested by the secretary or the attorney general, the court could waive any recovery, except from actual damages.

New law provides that if requested by the secretary or the attorney general, the court may reduce to not less than twice the actual damages, if requested.

Prior law (R.S. 46:439.1(D)(1)) provided that no court could have jurisdiction over a qui tam action based on the public disclosure of allegations.

New law requires the court to dismiss an action if the same allegations were publicly disclosed in any of the following: (1) Criminal, civil, or administrative hearing; (2) Congressional or government accountability office; or (3) News media.

Prior law (R.S. 46:439.1(D)(2)) defined "original source" as an individual who, had direct and independent knowledge of the information on which the allegations were based and had voluntarily provided the information to the secretary or attorney general before the action was filed in accordance with existing law.

New law defines "original source" as an individual who prior to a public disclosure in accordance with this Subsection, has voluntarily disclosed to the government the information on which allegations or transactions in a claim are based or who has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the government before filing an action in accordance with this Subpart.

Also, provides that any employee, contractor, or agent is entitled to all relief necessary to make that employee, contractor, or agent whole, if the employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action in accordance with existing law or other efforts to stop one or more violations of this existing law.

Prior law (R.S. 46:439.1(E)(1) and (2)) provided that a public employee who had a duty to report wrongdoing or who had access to records relative to the activities of a health care provider could not bring a qui tam action.

New law deletes prior law. Also provides that relief in accordance with existing law must include reinstatement with the same seniority status the employee, contractor, or agent 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 attorney fees. An action in accordance with existing law may be brought in the appropriate district court of competent jurisdiction for the relief provided in existing law. Further provides that a civil action in accordance with existing law may not be brought more than three years after the date the retaliation occurred.

Prior law (R.S. 46:439.1(F)) prohibited employers from discharging, demoting, suspending, or otherwise discriminating against a qui tam plaintiff.

New law deletes prior law.

Prior law (R.S. 46:439.1(G)) provided that any employee had to be entitled to all relief necessary to make him whole if he was discharged, demoted, suspended, or discriminated against in any manner. An employee could bring an action for relief in a district court where the violation occurred.

New law deletes prior law.

Prior law (R.S. 46:439.1(H)) provided that the court had to allow the secretary or the attorney general to intervene and proceed with the qui tam action in the district court at any time during the qui tam action proceedings.

New law deletes prior law.

Prior law (R.S. 46:439.1(I)) provided that a qui tam complaint and information that was filed with the secretary or attorney general could not be subject to discovery or become public record until judicial service of the qui tam action was made on any of the defendants, except that the information contained therein could have been given to other governmental entities or their authorized agents for review and investigation. Also provided that such entities and their authorized agents had to maintain the confidentiality of the information provided to them under existing law.

New law deletes prior law.

Prior law (R.S. 46:439.2(A)(1), (2), and (3)) required 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 arose out of the same information, the court had to dismiss any action filed more than 30 days after the first qui tam complaint.

New 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.

Prior law (R.S. 46:439.2(A)(4)(b)) provided that the attorney general could request one 90-day extension for the complaint to remain under seal and not served on the defendant.

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

New law provides that any government intervention relates back to the date the complaint was filed, for prescription purposes.

Prior law (R.S. 46:439.2(C)) provided that if the qui tam plaintiff failed to comply with the procedures in existing law, the court could dismiss the plaintiff after a contradictory hearing.

New law deletes prior law.

Prior law (R.S. 46:439.4(A)(3)) provided that the court could award less than 15% recovery if it found that the allegations were not primarily based on information provided by the qui tam plaintiff.

New 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.

Effective August 15, 2011.

(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))