

2025 Regular Session

HOUSE BILL NO. 560

BY REPRESENTATIVE EGAN

1 AN ACT

2 To amend and reenact R.S. 46:437.3(introductory paragraph), (11), (14), and (29), 437.5(B),
3 438.1(A) and (C)(1)(a) and (b), 438.3, 438.6(D)(3), 438.7(3), 439.1(A),(D), and (G),
4 439.2(A)(1), (2), (3), and (4)(b), (B)(1), (2), (3), (4)(a), and (5), and (E), and
5 439.4(A)(1), (C)(2), (F), and (G), to enact R.S. 46:437.3(31), 437.6(D), 437.7(E),
6 438.5(F), 438.8(B)(3), and to repeal R.S. 46:437.3(7), (10), (15), (19), and (24),
7 438.6(A)(2) and (3), 438.8(D)(2), 439.1(F), 439.2(F), and 440.3, relative to the
8 Medical Assistance Programs Integrity Law; to provide for the prosecution and
9 investigation of fraud related to medical assistance programs; to identify fraud and
10 unlawful acts related to claims to medical assistance programs; to establish
11 procedure for pursuing certain claims; to provide for qui tam actions; to provide for
12 definitions; to provide for damages and recovery related to fraudulent claims to
13 medical assistance programs; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 46:437.3(introductory paragraph), (11), (14), and (29), 437.5(B),
16 438.1(A) and (C)(1)(a) and (b), 438.3, 438.6(D)(3), 438.7(3), 439.1(A),(D), and (G),
17 439.2(A)(1), (2), (3), and (4)(b), (B)(1), (2), (3), (4)(a), and (5), and (E), and 439.4(A)(1),
18 (C)(2), (F), and (G) are hereby amended and reenacted and R.S. 46:437.3(31), 437.6(D),
19 437.7(E), 438.5(F), 438.8(B)(3) are hereby enacted to read as follows:

1 §437.3. Definitions

2 As used in this Part, the following terms ~~shall~~ have the following meanings:

3 * * *

4 (11) "Knowing" or "knowingly" means that the person has actual knowledge
5 of the information or acts in deliberate ignorance or reckless disregard of the truth
6 or falsity of the information. No proof of specific intent to defraud is required.

7 * * *

8 (14) "Medical assistance programs" means the Medical Assistance Program,
9 also known as Title XIX of the Social Security Act and ~~(Title XIX of the Social~~
10 ~~Security Act)~~, commonly referred to as "Medicaid", and other programs ~~operated by~~
11 ~~and funded in the department which provide payment to health care providers.~~
12 administered by the department.

13 * * *

14 (29) "Secretary or attorney general" means that either party is authorized to
15 institute a proceeding or take other authorized action as provided in this Part
16 pursuant to a memorandum of understanding between the two so as to notify the
17 public as to whether the secretary or the attorney general is the deciding or
18 controlling party in the proceeding or other authorized ~~matter.~~ matter; however the
19 secretary may pursue an action pursuant to R.S. 46:438.1 et seq. only if the
20 department referred the matter to the attorney general and the attorney general
21 notified the secretary, in writing, that he declines to proceed with the matter.

22 * * *

23 (31) "Managed care organization" means any person or entity contracted
24 with the department for the provision or management of healthcare benefits under
25 the medical assistance programs through a capitated rate.

26 * * *

27 §437.5. Settlement

28 * * *

29 B. ~~At a minimum, the settlement shall ensure that the recovery agreed to by~~
30 ~~the parties covers the estimated loss sustained by the medical assistance programs.~~

~~The settlement shall include the method and means of payment for recovery, including but not limited to adequate security for the full amount of the settlement.~~

Nothing in this Section shall limit the rights of a qui tam plaintiff who brings a qui tam action in accordance with Subpart C of this Part.

§437.6. Injunctive relief; lis pendens; disclosure of property and liabilities

* * *

D. Nothing in this Section shall limit the rights of a qui tam plaintiff who
brings a qui tam action in accordance with Subpart C of this Part.

§437.7. Forfeiture of property for payment of recovery

* * *

E. Nothing in this Section shall limit the rights of a qui tam plaintiff who brings a qui tam action in accordance with Subpart C of this Part.

* * *

§438.1. Civil actions authorized

A. The attorney general shall diligently investigate a violation of this Part.

The secretary or the attorney ~~general~~ general, on behalf of the state, may institute a civil action in the ~~courts of this state~~ Nineteenth Judicial District Court for the parish of East Baton Rouge or another court of proper jurisdiction to seek recovery from persons who violate the provisions of this Part. The contract of employment of any private counsel, including fee amounts, and all final fees and costs, shall be a public record.

* * *

C.(1) A prevailing defendant may seek recovery for costs, expenses, fees, and attorney fees only if the court finds, following a contradictory hearing, that either of the following apply:

(a) The action was instituted by the ~~secretary or attorney general~~ state pursuant to Subsection A of this Section after it should have been determined by the ~~secretary or attorney general~~ state to be frivolous, vexatious, or brought primarily for the purpose of harassment.

1 (b) The ~~secretary or attorney general~~ state proceeded with the action
2 instituted pursuant to Subsection A of this Section after it should have been
3 determined by the ~~secretary or attorney general~~ state that proceeding would be
4 frivolous, vexatious, or for the purpose of harassment.

5 * * *

6 §438.3. False or fraudulent claim; misrepresentation; unlawful acts

7 A. No person shall knowingly present or cause to be presented a false or
8 fraudulent claim for payment or approval.

9 B. No person shall knowingly engage in misrepresentation or knowingly
10 make, use, or cause to be made or used, a false record or statement material to a false
11 or fraudulent claim.

12 C. No person shall knowingly make, use, or cause to be made or used, a false
13 record or statement material to an obligation to pay or transmit money or property
14 to the medical assistance programs, or ~~to knowingly conceal~~, conceal or knowingly
15 and improperly avoid, avoid or decrease an obligation to pay or transmit money or
16 property to the medical assistance programs.

17 D. ~~No person shall conspire to defraud, or attempt to defraud, the medical~~
18 ~~assistance programs through misrepresentation or by obtaining, or attempting to~~
19 ~~obtain, payment for a false or fraudulent claim.~~ No person shall conspire to defraud
20 the medical assistance programs or conspire to commit a violation of this Part.

21 E.(1) No person shall knowingly submit a claim for goods, services, or
22 supplies which were medically unnecessary or which were of substandard quality or
23 quantity.

24 (2) If a managed care health care provider or a health care provider operating
25 under a voucher system under the medical assistance programs fails to provide
26 medically necessary goods, services, or supplies or goods, services, or supplies
27 which are of substandard quality or quantity to a recipient, and those goods, services,
28 or supplies are covered under the managed care contract or voucher contract with the
29 medical assistance programs, such failure shall constitute a violation of Paragraph
30 (1) of this Subsection.

1 (3) "Substandard quality" in reference to services applicable to medical care
2 as used in this Subsection shall mean substandard as to the appropriate standard of
3 care as used to determine medical malpractice, including but not limited to the
4 standard of care provided in R.S. 9:2794.

5 F. No person shall knowingly make or cause to be made a claim under the
6 medical assistance programs for any of the following:

7 (1) A service or product that has not been approved or prescribed by a
8 treating physician or health care practitioner.

9 (2) A service or product that is substantially inadequate or inappropriate
10 when compared to generally recognized standards within the particular discipline or
11 within the health care industry.

12 (3) A product that has been adulterated, debased, mislabeled, or is otherwise
13 inappropriate.

14 ~~G. No action shall be brought under this Section unless the amount of~~
15 ~~alleged actual damages is one thousand dollars or more.~~ No person shall knowingly
16 make, cause to be made, induce, or seek to induce the making of a false statement
17 or misrepresentation of material fact concerning any of the following:

18 (1) The condition or operation of a facility in order that the facility may
19 qualify for certification or recertification required by the medical assistance
20 programs including but not limited to certification or recertification of any of the
21 following:

22 (a) A hospital.

23 (b) A nursing facility or skilled nursing facility.

24 (c) A hospice.

25 (d) An intermediate care facility for people with developmental disabilities.

26 (e) An assisted living facility.

27 (f) A home health agency.

28 (2) Information the person is required to produce to the department by
29 federal or state law, rule, regulation, or provider agreement.

1 H. No provider or provider-in-fact shall fail to provide to the department,
2 attorney general, legislative auditor, or other appropriate state agency information
3 required to be provided by law, rule, or contractual provision.

4 I. No person shall defraud or attempt to defraud the medical assistance
5 programs through misrepresentation.

6 J. No person shall obtain or attempt to obtain payment for a false or
7 fraudulent claim.

8 K. It shall be unlawful for a managed care organization or a subcontractor
9 to a managed care organization that contracts with the department or other state
10 agency to provide or arrange to provide health care benefits or services to individuals
11 eligible under the medical assistance programs and knowingly do any of the
12 following:

13 (1) Fail to provide an individual a healthcare benefit or service that the
14 organization is required to provide under the contract with the department.

15 (2) Fail to provide to the department, attorney general, legislative auditor,
16 or other appropriate state agency information required to be provided by law, rule,
17 or contractual provision.

18 (3) Engage in fraudulent activity in connection with the enrollment of an
19 individual eligible under the medical assistance programs or in connection with
20 marketing the organization's services to an individual eligible under the medical
21 assistance programs.

22 L. No person shall make a claim under the medical assistance programs and
23 knowingly misrepresent the identification of the healthcare provider who actually
24 provided the service when such identification is necessary to obtain payment for the
25 claim.

26 F. M. Each violation of this Section may be treated as a separate violation
27 or may be combined into one violation at the option of the secretary or the attorney
28 general.

29 H. N. No action brought pursuant to this Section shall be instituted later than
30 ten years after the date upon which the alleged violation occurred.

31 * * *

§438.5. Civil monetary penalty

* * *

F. Nothing in this Section shall limit the rights of a qui tam plaintiff who brings a qui tam action in accordance with Subpart C of this Part.

§438.6. Recovery

* * *

D.

* * *

(3) The ~~secretary or attorney general~~ state shall promptly remit awards for those costs, expenses, and fees incurred by the various clerks of court or sheriffs involved in the investigations or proceedings to the appropriate clerk or sheriff.

* * *

§438.7. Reduced damages

If requested by the secretary or the attorney general, the court may reduce to not less than twice the actual damages or any recovery required to be imposed under the provisions of this Subpart if all of the following extenuating circumstances are found to be applicable:

* * *

(3) At the time the violator furnished the information concerning the specific allegation to the ~~department or the attorney general~~ state, no criminal prosecution, civil action, or ~~departmental investigation or proceeding~~ administrative action had been commenced as to the alleged ~~violation~~. violation, and the violator did not have actual knowledge of the existence of an investigation into such a violation.

§438.8. Burden of proof; prima facie evidence; standard of review

* * *

B. 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:

* * *

(3) Notwithstanding any other provision of law, rules of criminal procedure, or the rules of evidence to the contrary, a final judgment rendered in favor of the

1 state in any criminal proceeding charging fraud or false statements, whether upon a
 2 verdict after trial or upon a plea of guilty or nolo contendere, shall prevent the
 3 defendant from denying the essential elements of the offense in any action involving
 4 the same transaction as in the criminal proceeding and brought by the secretary or
 5 attorney general pursuant to Subpart B of this Part or a qui tam action pursuant to
 6 Subpart C of this Part.

7 * * *

8 §439.1. Qui tam action, civil action filed by private person

9 A. A private person may institute a civil action in the courts of this state on
 10 behalf of the ~~medical assistance programs~~ state and himself to seek recovery for a
 11 violation of R.S. 46:438.2, 438.3, or 438.4 pursuant to the provisions of this Subpart.
 12 The institutor shall be known as a "qui tam plaintiff" and the civil action shall be
 13 known as a "qui tam action". The action may be dismissed only if the court and the
 14 attorney general give written consent to the dismissal and reasons for consenting.

15 * * *

16 D.(1) Unless the action is brought by the state or the qui tam plaintiff is an
 17 original source of information, The the court shall dismiss an action or claim in
 18 accordance with this Section, unless opposed by the ~~government,~~ state if
 19 substantially the same allegations or transactions as alleged in the action or claim
 20 were publicly disclosed in any of the following:

21 (a) A criminal, civil, or administrative hearing in which the ~~government~~ state
 22 or its agent is a party.

23 (b) A ~~congressional or government accountability office or other federal~~
 24 ~~report,~~ state legislative or other state hearing, report, audit, or investigation.

25 (c) The news media. ~~media, unless the action is brought by the attorney~~
 26 ~~general or the person bringing the action is an original source of the information.~~

27 (2) For the purposes of this Subsection, "original source" means an
 28 individual who, prior to a public disclosure in accordance with this Subsection, has
 29 voluntarily disclosed to the ~~government~~ state the information on which allegations
 30 or transactions in a claim are based or who has knowledge that is independent of and

1 materially adds to the publicly disclosed allegations or transactions, and who has
2 voluntarily provided the information to the ~~government~~ state before filing an action
3 in accordance with this Subpart.

4 * * *

5 G. Notwithstanding any other law to the contrary, a qui tam complaint and
6 information ~~filed with the secretary or attorney general~~ delivered to the state shall not
7 be subject to discovery or become public record until judicial service of the qui tam
8 action is made on any of the defendants, except that the information contained
9 therein may be given to other governmental entities or their authorized agents for
10 review and investigation. The entities and their authorized agents shall maintain the
11 confidentiality of the information provided to them under this Subsection.

12 §439.2. Qui tam action procedures

13 A. The following procedures shall be applicable to a qui tam action:

14 (1) The complaint shall be captioned: "~~Medical Assistance Programs~~ State
15 of Louisiana Ex Rel.: [insert name of qui tam plaintiff(s)] v. [insert name of
16 defendant(s)]". The qui tam complaint shall be filed with the appropriate state or
17 federal district court.

18 (2) A copy of the qui tam complaint and written disclosure of substantially
19 all material evidence and information each qui tam plaintiff possesses shall be served
20 upon the ~~secretary or the attorney general~~ state in accordance with the applicable
21 rules of civil procedure.

22 (3) When a person brings an action in accordance with this Subpart, no
23 ~~person other than the secretary or attorney general~~ person or entity other than the
24 state may intervene or bring a related action based on the ~~same~~ facts underlying the
25 pending action.

26 (4)

27 * * *

28 (b) For good cause shown, the ~~secretary or the attorney general~~ state may
29 move the court for extensions of time during which the petition remains under seal.

1 Any such motions may be supported by affidavits or other submissions in camera
2 and under seal.

3 B.(1) If the ~~secretary or the attorney general~~ state elects to intervene in the
4 action, the ~~secretary or the attorney general~~ state shall not be bound by any act of a
5 qui tam plaintiff. The secretary or the attorney general shall control the qui tam
6 action proceedings on behalf of the state and the qui tam plaintiff may continue as
7 a party to the ~~action.~~ action, subject to the limitations set forth in this Section and
8 R.S. 46:439.3. For prescription purposes, any government complaint in intervention,
9 whether filed separately or as an amendment to the ~~relator's~~ qui tam plaintiff's
10 complaint, shall relate back to the filing date of the complaint, to the extent that the
11 claim of the government arises out of the conduct, transactions, or occurrences set
12 forth, or attempted to be set forth, in the ~~relator's~~ qui tam plaintiff's complaint.

13 (2) ~~The qui tam plaintiff and his counsel shall cooperate fully with the~~
14 ~~secretary or the attorney during the pendency of the qui tam action.~~ Upon a showing
15 by the state during the course of the litigation by the qui tam plaintiff that the action
16 would interfere with or unduly delay the state's prosecution of the case, or it would
17 be repetitious, irrelevant, or for the purposes of harassment, the court may, in its
18 discretion, impose limitations on the qui tam plaintiff's participation, including but
19 not limited to all of the following:

20 (a) Limiting the number of witnesses the qui tam plaintiff may call.

21 (b) Limiting the length of a witness' testimony.

22 (c) Limiting the qui tam plaintiff's cross-examination of a witness.

23 (d) Otherwise limiting the participation of the qui tam plaintiff in the
24 litigation.

25 (3) If requested by the ~~secretary or the attorney general~~ state and
26 notwithstanding the objection of the qui tam plaintiff, the court may dismiss the qui
27 tam action provided the qui tam plaintiff has been notified by ~~the secretary or the~~
28 ~~attorney general~~ the state of the filing of the motion to dismiss and the court has
29 provided the qui tam plaintiff a contradictory hearing on the motion.

1 (4)(a) ~~If the secretary or the attorney general does not intervene, the qui tam~~
2 ~~plaintiff may proceed with the qui tam action unless the secretary or the attorney~~
3 ~~general shows that proceeding would adversely affect the prosecution of any pending~~
4 ~~criminal actions or criminal investigations into the activities of the defendant. Such~~
5 ~~a showing shall be made to the court in camera and neither the qui tam plaintiff or~~
6 ~~the defendant shall be informed of the information revealed in camera. In which~~
7 ~~case, the qui tam action shall be stayed for no more than one year. Whether or not~~
8 ~~the state proceeds with the action, upon a showing by the state that certain actions~~
9 ~~of discovery by the qui tam plaintiff would interfere with the investigation or~~
10 ~~proceedings of a criminal or civil matter arising out of the same facts, the court may~~
11 ~~stay such discovery for a period of not more than sixty days. The court shall conduct~~
12 ~~an in-camera showing in accordance with this Subparagraph. The court may extend~~
13 ~~the sixty-day period upon a further showing, in-camera, that the state has pursued the~~
14 ~~criminal or civil investigation or proceedings with reasonable diligence and any~~
15 ~~proposed discovery in the qui tam action will interfere with the ongoing criminal or~~
16 ~~civil investigation or proceedings.~~

17 * * *

18 (5) ~~If the qui tam plaintiff objects to a settlement of the qui tam action~~
19 ~~proposed by the secretary or the attorney general, the court may authorize the~~
20 ~~settlement only after a hearing to determine whether the proposed settlement is fair,~~
21 ~~adequate, and reasonable under the circumstances. The state may settle the qui tam~~
22 ~~action with the defendant notwithstanding the objection of the qui tam plaintiff if the~~
23 ~~court determines, after a hearing, that the proposed settlement is fair, adequate, and~~
24 ~~reasonable under the circumstances. The court may conduct the hearing in camera~~
25 ~~upon a showing of good cause.~~

26 * * *

27 E. If the state elects not to proceed with the action, the qui tam plaintiff shall
28 ~~have the right to conduct the action. At the state's request, the~~ The qui tam plaintiff
29 ~~and the defendant shall serve all pleadings and papers filed, as well as discovery, in~~
30 ~~the qui tam action on the secretary and the attorney general~~ the state with all

1 pleadings in the action and supply the state with copies of all deposition transcripts
2 at the state's expense.

3 * * *

4 §439.4. Recovery awarded to a qui tam plaintiff

5 A.(1) Except as provided by Subsection D of this Section and Paragraph (3)
6 of this Subsection, if the ~~secretary or the attorney general intervenes~~ state proceeds
7 in the action brought by a qui tam plaintiff, the qui tam plaintiff shall receive at least
8 fifteen percent, but not more than twenty-five percent, of recovery.

9 * * *

10 C.

11 * * *

12 (2) If the ~~secretary or the attorney general~~ state does not intervene and the
13 qui tam plaintiff conducts the action, the court ~~shall~~ may award costs, expenses, fees,
14 and attorney fees to a prevailing defendant if the court finds that the ~~allegations made~~
15 ~~by the qui tam plaintiff were meritless or brought primarily for the purposes of~~
16 ~~harassment.~~ claims of the qui tam plaintiff were clearly frivolous, clearly vexatious,
17 or primarily for the purposes of harassment. A finding by the court that qui tam
18 ~~allegations were meritless or brought primarily for the purposes of harassment may~~
19 ~~be used by the prevailing defendant in the qui tam action or any other civil~~
20 ~~proceeding to recover losses or damages sustained as a result of the qui tam plaintiff~~
21 ~~filing and pursuing such a qui tam action.~~

22 * * *

23 F. In no instance shall ~~the secretary, the medical assistance programs, the~~
24 ~~attorney general, or the state~~ the state, including but not limited to any state
25 department, agency, or board, be liable for any costs, expenses, fees, or attorney fees
26 incurred by the qui tam plaintiff or for any award entered against the qui tam
27 plaintiff.

28 G. The percentage of the share awarded to or settled for by the qui tam
29 plaintiff shall be determined using the total amount of the ~~award or settlement~~
30 proceeds of the action or settlement of the claim.

1 Section 2. R.S. 46:437.3(7), (10), (15), (19), and (24), 438.6(A)(2) and (3),
2 438.8(D)(2), 439.1(F), 439.2(F), and 440.3 are hereby repealed in their entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____