

1 §513. Powers and duties of legislative auditor; audit reports as public records;
2 assistance and opinions of attorney general; frequency of audits;
3 subpoena power

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5 **P. The legislative auditor may access individual-level state income tax**
6 **return data in accordance with R.S. 47:1508(B)(42) for the limited purposes of**
7 **ensuring accuracy of Medicaid eligibility determinations, detecting and**
8 **preventing fraud in the Medicaid program, and fulfilling all other applicable**
9 **requirements of the Medical Assistance Programs Integrity Law, R.S. 46:437.1**
10 **et seq.**

11 Section 2. R.S. 36:254(A)(6)(c) and (d) are hereby enacted to read as follows:

12 §254. Powers and duties of the secretary of the Louisiana Department of Health

13 A. In addition to the functions, powers, and duties otherwise vested in the
14 secretary by law, he shall:

15 * * *

16 (6)

17 * * *

18 **(c) Take such actions as are necessary to ensure accuracy in medical**
19 **assistance program eligibility determinations.**

20 **(d) Work cooperatively with other departments and officials of the state,**
21 **including but not limited to the attorney general, the legislative auditor, and the**
22 **Louisiana Department of Revenue, in detecting and preventing fraud in the**
23 **medical assistance program and fulfilling all other applicable requirements of**
24 **the Medical Assistance Programs Integrity Law, R.S. 46:437.1 et seq.**

25 * * *

26 Section 3. Subpart D-2 of Part VI-A of Chapter 3 of Title 46 of the Louisiana
27 Revised Statutes of 1950, comprised of R.S. 46:440.9.1 through 440.9.4, is hereby enacted
28 to read as follows:

29 **SUBPART D-2. MEDICAID PROGRAM INTEGRITY**

1 IN ELIGIBILITY DETERMINATIONS

2 §440.9.1. Legislative findings; intent

3 A. The legislature hereby finds and affirms all of the following:

4 (1) Fraud, waste, and abuse in the Louisiana Medicaid program divert
5 public resources that could otherwise be used for legitimate health services for
6 those with the greatest needs in our state.

7 (2) The United States Government Accountability Office estimates that
8 in federal fiscal year 2016, the proportion of federal Medicaid spending
9 comprised of improper payments was approximately ten and one-half percent,
10 equating to thirty-six billion taxpayer dollars lost to Medicaid fraud, waste,
11 abuse, and other improper expenditures.

12 (3) An October 2017 analysis by the Louisiana Department of Revenue
13 which examined 2016 Louisiana income tax return data for the entire
14 population of adult Medicaid recipients, comprised of approximately eight
15 hundred sixty thousand individuals, found all of the following:

16 (a) That the self-attested income shown on the Medicaid applications of
17 approximately twenty-five percent of adult Medicaid enrollees differed by at
18 least twenty thousand dollars from the income shown on their state income tax
19 returns.

20 (b) That the self-attested household size shown on the Medicaid
21 applications of over half of adult Medicaid enrollees did not match the number
22 of exemptions shown on their state income tax returns.

23 (4)(a) The January 2018 report of the Louisiana task force on
24 coordination of Medicaid fraud detection and prevention initiatives issued in
25 accordance with R.S. 46:440.4 et seq. identifies all of the following as
26 high-priority needs in this state:

27 (i) The need to strengthen Medicaid eligibility determination processes.

28 (ii) The need to better coordinate interagency efforts to prevent fraud,
29 waste, and abuse in the Medicaid program.

1 (iii) The need to strengthen oversight and tighten controls in the
2 Medicaid managed care program.

3 (b) The January 2018 report of the Louisiana task force on coordination
4 of Medicaid fraud detection and prevention initiatives sets forth all of the
5 following recommendations:

6 (i) The Louisiana Department of Revenue and the Louisiana Department
7 of Health should improve their cooperation, coordination, and data sharing
8 agreements for the purpose of providing the Louisiana Department of Health
9 with additional tools to properly determine the eligibility of persons for
10 Medicaid benefits.

11 (ii) The Louisiana Department of Health should develop a standardized
12 process for reporting the results of its eligibility fraud reviews to both the
13 attorney general and the legislative auditor for the purpose of allowing those
14 agencies an opportunity to further pursue potential fraud cases as authorized
15 or required by law.

16 (iii) The Louisiana Department of Health should continue to work with
17 the Healthcare Fraud Prevention Partnership of the Centers for Medicare and
18 Medicaid Services to share data in order to take advantage of resources
19 available through the partnership such as results of studies that identify
20 potentially fraudulent activity. Further, the department should cause the
21 Medicaid managed care organizations with which it contracts to participate in
22 the Healthcare Fraud Prevention Partnership, as combining data maintained
23 by the department and the managed care organizations with data of other
24 partnership members will contribute to a comprehensive fraud, waste, and
25 abuse detection and prevention system.

26 B. The intent of this Subpart is to enhance the overall integrity of the
27 Louisiana Medicaid program through necessary reforms to the program's
28 eligibility determination functions.

29 §440.9.2. Medicaid eligibility determinations; utilization of state income tax

1 data

2 A. The Louisiana Department of Health shall utilize state income tax
3 return data in the process of determining all of the following:

4 (1) A Medicaid applicant's initial eligibility for Medicaid benefits.

5 (2) A Medicaid enrollee's continued eligibility for Medicaid benefits at
6 the time of his eligibility redetermination.

7 B. The Louisiana Department of Health shall utilize state income tax
8 return data including but not limited to income and dependent information in
9 its Medicaid eligibility determination process.

10 §440.9.3. Data sharing agreement with the Louisiana Department of Revenue

11 The secretary of the Louisiana Department of Health shall enter into any
12 memorandum of understanding, cooperative endeavor, or other type of
13 agreement as may be necessary to facilitate mutual sharing of data with the
14 Louisiana Department of Revenue for the purposes set forth in this Subpart.

15 §440.9.4. Reasonable compatibility; limitation

16 A. For purposes of this Section, "reasonable compatibility" refers to the
17 result of a reconciliation of discrepancies between a Medicaid applicant's
18 self-attestation about his financial information and the information reported by
19 the electronic data sources which a state Medicaid agency utilizes in its
20 eligibility determination process.

21 B. With respect to the income verification function of the Medicaid
22 eligibility determination process, the Louisiana Department of Health shall
23 ensure that the self-attested income of any applicant or enrollee approved for
24 initial or continuing Medicaid eligibility does not exceed his electronically
25 reported income by more than ten percent.

26 C. The secretary of the Louisiana Department of Health shall take all
27 such actions as are necessary, including but not limited to submission of
28 Medicaid state plan amendments and promulgation of administrative rules, to
29 ensure that the reasonable compatibility standard provided for in this Section

1 **is implemented.**

2 Section 4. R.S. 47:1508(B)(42) is hereby enacted to read as follows:

3 §1508. Confidentiality of tax records

4 * * *

5 B. Nothing herein contained shall be construed to prevent:

6 * * *

7 **(42)(a) The secretary from disclosing individual-level state income tax**
8 **return data to the legislative auditor or the secretary of the Louisiana**
9 **Department of Health exclusively for the purposes specified in this Paragraph.**

10 **(b) The legislative auditor and the secretary of the Louisiana Department**
11 **of Health shall utilize data disclosed pursuant to this Paragraph for the**
12 **following purposes, exclusively:**

13 **(i) Ensuring accuracy of Medicaid eligibility determinations.**

14 **(ii) Detecting and preventing fraud in the Medicaid program.**

15 **(iii) Fulfilling the requirements of the Medical Assistance Programs**
16 **Integrity Law, R.S. 46:437.1 et seq.**

17 **(c) The secretary may enter into any memorandum of understanding,**
18 **cooperative endeavor, or other type of agreement as may be necessary to**
19 **facilitate sharing of data with the legislative auditor and the secretary of the**
20 **Louisiana Department of Health, respectively, for the purposes set forth in this**
21 **Paragraph.**

22 Section 5. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 7 Original

2018 First Extraordinary Session

Walsworth

Proposed law presents legislative findings relative to fraud, waste, and abuse in the Medicaid program, and concerning recommendations of the La. task force on coordination of Medicaid fraud detection and prevention initiatives.

Proposed law provides that its purpose is to enhance the overall integrity of the La. Medicaid program through necessary reforms to the program's eligibility determination functions.

Proposed law requires the La. Department of Health (LDH) to utilize state income tax return data in the process of determining all of the following:

- (1) A Medicaid applicant's initial eligibility for Medicaid benefits.
- (2) A Medicaid enrollee's continued eligibility for Medicaid benefits at the time of his eligibility redetermination.

Proposed law requires that LDH utilize state income tax return data including but not limited to income and dependent information in its Medicaid eligibility determination process.

Proposed law requires the secretary of LDH to enter into any memorandum of understanding, cooperative endeavor, or other type of agreement as may be necessary to facilitate mutual sharing of data with the La. Department of Revenue for the purposes set forth in proposed law.

With respect to the income verification function of the Medicaid eligibility determination process, proposed law requires LDH to ensure that the self-attested income of any applicant or enrollee approved for initial or continuing Medicaid eligibility does not exceed his electronically reported income by more than 10%.

Present law provides that the records and files of the secretary of the La. Department of Revenue are confidential and privileged, and that no person shall divulge or disclose any information obtained from such records and files except as authorized by present law.

Proposed law authorizes the secretary of the La. Department of Revenue to disclose individual-level state income tax return data to the legislative auditor or the secretary of LDH for the following purposes exclusively:

- (1) Ensuring accuracy of Medicaid eligibility determinations.
- (2) Detecting and preventing fraud in the Medicaid program.
- (3) Fulfilling the requirements of present law relative to Medicaid program integrity.

Proposed law authorizes the secretary of the La. Department of Revenue to enter into any memorandum of understanding, cooperative endeavor, or other type of agreement as may be necessary to facilitate sharing of data with the legislative auditor and the secretary of LDH, respectively, for the purposes set forth in proposed law.

Present law provides for the powers and duties of the legislative auditor.

Proposed law retains present law and adds an authorization for the legislative auditor to access individual-level state income tax return data, in accordance with proposed law, for

the following purposes:

- (1) Ensuring accuracy of Medicaid eligibility determinations.
- (2) Detecting and preventing fraud in the Medicaid program.
- (3) Fulfilling all other applicable requirements of present law relative to Medicaid program integrity.

Present law provides for the powers and duties of the secretary of LDH.

Proposed law retains present law and adds the following duties:

- (1) To take such actions as are necessary to ensure accuracy in Medicaid eligibility determinations.
- (2) To work cooperatively with other state departments and officials, including but not limited to the attorney general, the legislative auditor, and the La. Department of Revenue, in detecting and preventing Medicaid fraud and fulfilling all other applicable requirements of present law relative to Medicaid program integrity.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 24:513(P), R.S. 36:254(A)(6)(c) and (d), R.S. 46:440.9.1-440.9.4, and R.S. 47:1508(B)(42))