

2020 Regular Session

SENATE BILL NO. 391

BY SENATOR FRED MILLS

CIVIL PROCEDURE. Provides relative to the Medical Assistance Programs Integrity Law.
(8/1/20)

1 AN ACT
2 To amend and reenact R.S. 46:437.3(7) through (11) and (14) through (28), 437.5, 438.1(A)
3 and (C)(1), 438.3(A), (B), and (D) through (H), 438.6(A) and (D)(3), 438.7(3),
4 438.8(D), 439.1(A), (D)(1) and (F), 439.2(A), (B), and (E), and 439.4(A)(1), (C)(2),
5 (F) and (G), and to enact R.S. 46:437.6(D), 437.7(E), 438.3(I) through (N), 438.5(F),
6 and 438.8(B)(3), and to repeal R.S. 46:437.3(29) and (30), 439.1(G), 439.2(F), and
7 440.3, relative to the Medicaid Assistance Programs Integrity Law; to provide for
8 settlement; to provide for injunctive relief; to provide for civil actions; to provide for
9 false or fraudulent claims and misrepresentation; to provide for civil penalties; to
10 provide for recovery; to provide for reduction of damages; to provide for burden of
11 proof, prima facie evidence and standard of review; to provide for qui tam action and
12 procedure; to provide for recovery; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 46:437.3(7) through (11) and (14) through (28), 437.5, 438.1(A) and
15 (C)(1), 438.3(A), (B) and (D) through (H), 438.6(A) and (D)(3), 438.7(3), 438.8(D),
16 439.1(A), (D)(1) and (F), 439.2(A), (B), and (E), and 439.4(A)(1), (C)(2), (F) and (G) are
17 hereby amended and reenacted and R.S. 46:437.6(D), 437.7(E), 438.3(I) through (N),

1 438.5(F), and 438.8(B)(3) are hereby enacted to read as follows:

2 §437.3. Definitions

3 As used in this Part the following terms shall have the following meanings:

4 * * *

5 ~~(7) "False or fraudulent claim" means a claim which the health care provider~~
6 ~~or his billing agent submits knowing the claim to be false, fictitious, untrue, or~~
7 ~~misleading in regard to any material information. "False or fraudulent claim" shall~~
8 ~~include a claim which is part of a pattern of incorrect submissions in regard to~~
9 ~~material information or which is otherwise part of a pattern in violation of applicable~~
10 ~~federal or state law or rule.~~

11 ~~(8)~~ "Good, service, or supply" means any good, item, device, supply, or
12 service for which a claim is made, or is attempted to be made, in whole or part.

13 ~~(9)~~**(8)** "Health care provider" means any person furnishing or claiming to
14 furnish a good, service, or supply under the medical assistance programs, any other
15 person defined as a health care provider by federal or state law or by rule, and a
16 provider-in-fact.

17 ~~(10)~~**(9)** "Ineligible recipient" means an individual who is not eligible to
18 receive health care through the medical assistance programs.

19 ~~(11)~~**(10)** "Knowing" or "knowingly" means that the person has actual
20 knowledge of the information or acts in deliberate ignorance or reckless disregard
21 of the truth or falsity of the information. **No proof of specific intent to defraud is**
22 **required.**

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

26 * * *

27 (14) "Medical assistance programs" means the Medical Assistance Program
28 (Title XIX of the Social Security Act), commonly referred to as "Medicaid", and
29 other programs ~~operated by and funded in the department which provide payment to~~

1 health care providers **administered by the department.**

2 (15) "~~Misrepresentation~~" means ~~the knowing failure to truthfully or fully~~
3 ~~disclose any and all information required, or the concealment of any and all~~
4 ~~information required on a claim or a provider agreement or the making of a false or~~
5 ~~misleading statement to the department relative to the medical assistance programs.~~

6 ~~(16)~~ "**Obligation**" means an established duty, whether or not fixed, arising
7 from an express or implied contractual, grantor, grantee, or licensor-licensee
8 relationship, from a free-based or similar relationship, from statute or regulation, or
9 from the retention of any overpayment.

10 ~~(17)~~**(16)** "Order" means a final order imposed pursuant to an administrative
11 adjudication.

12 ~~(18)~~**(17)** "Ownership interest" means the possession, directly or indirectly,
13 of equity in the capital or the stock, or the right to share in the profits, of a health
14 care provider.

15 ~~(19)~~ "Payment" means ~~the payment to a health care provider from medical~~
16 ~~assistance programs funds pursuant to a claim, or the attempt to seek payment for a~~
17 ~~claim.~~

18 ~~(20)~~**(18)** "Property" means any and all property, movable and immovable,
19 corporeal and incorporeal.

20 ~~(21)~~**(19)** "Provider agreement" means a document which is required as a
21 condition of enrollment or participation as a health care provider under the medical
22 assistance programs.

23 ~~(22)~~**(20)** "Provider-in-fact" means an agent who directly or indirectly
24 participates in management decisions, has an ownership interest in the health care
25 provider, or other persons defined as a provider-in-fact by federal or state law or by
26 rule.

27 ~~(23)~~**(21)** "Recipient" means an individual who is eligible to receive health
28 care through the medical assistance programs.

29 ~~(24)~~**(22)** "Recoupment" means recovery through the reduction, in whole or

1 in part, of payment to a health care provider.

2 ~~(25)~~**(23)** "Recovery" means the recovery of overpayments, damages, fines,
3 penalties, costs, expenses, restitution, attorney fees, or interest or settlement
4 amounts.

5 ~~(26)~~**(24)** "Rule" means any rule or regulation promulgated by the department
6 in accordance with the Administrative Procedure Act and any federal rule or
7 regulation promulgated by the federal government in accordance with federal law.

8 ~~(27)~~**(25)** "Sanction" shall include but is not limited to any or all of the
9 following:

- 10 (a) Recoupment.
- 11 (b) Posting of bond, other security, or a combination thereof.
- 12 (c) Exclusion as a health care provider.
- 13 (d) A monetary penalty.

14 ~~(28)~~**(26)** "Secretary" means the secretary of the Louisiana Department of
15 Health, or his authorized designee.

16 ~~(29)~~**(27)** "Secretary or attorney general" means that either party is authorized
17 to institute a proceeding or take other authorized action as provided in this Part
18 pursuant to a memorandum of understanding between the two so as to notify the
19 public as to whether the secretary or the attorney general is the deciding or
20 controlling party in the proceeding or other authorized matter, **however the**
21 **secretary may pursue an action pursuant to R.S. 46:438.1 et seq. only if the**
22 **department referred the matter to the attorney general and the attorney general**
23 **notified the secretary in writing that he declines to proceed with the matter.**

24 ~~(30)~~**(28)** "Withhold payment" means to reduce or adjust the amount, in whole
25 or in part, to be paid to a health care provider for a pending or future claim during
26 the time of a criminal, civil, or departmental investigation or proceeding or claims
27 review of the health care provider.

28 * * *

29 §437.5. Settlement

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

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

9 * * *

10 §438.3. False or fraudulent claim; misrepresentation; **unlawful acts**

11 A. No person shall knowingly present or cause to be presented a false or
12 fraudulent claim **for payment or approval.**

13 B. No person shall knowingly engage in misrepresentation or **knowingly**
14 make, use, or cause to be made or used, a false record or statement material to a false
15 or fraudulent claim.

16 * * *

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~~ **or conspire to commit a violation**
20 **of any Section of this Part.**

21 **E. No person shall defraud or attempt to defraud the medical assistance**
22 **programs through misrepresentation.**

23 **F. No person shall obtain or attempt to obtain payment for a false or**
24 **fraudulent claim.**

25 **G. No person shall knowingly make, cause to be made, induce, or seek**
26 **to induce the making of a false statement or misrepresentation of material fact**
27 **concerning:**

28 **(1) The conditions or operation of a facility in order that the facility may**
29 **qualify for certification or recertification required by the Medicaid program**

1 **including but not limited to certification or recertification as:**

2 **(a) A hospital.**

3 **(b) A nursing facility or skilled nursing facility.**

4 **(c) A hospice.**

5 **(d) An intermediate care facility for the developmentally disabled.**

6 **(e) An assisted living facility.**

7 **(f) A home health agency.**

8 **(2) Information the person is required to produce to the department by**
9 **a federal or state law, rule, regulation, or provider agreement.**

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

14 ~~EI.~~(1) No person shall knowingly submit a claim for goods, services, or
15 supplies which were medically unnecessary or which were of substandard quality or
16 quantity.

17 (2) If a managed care health care provider or a health care provider operating
18 under a voucher system under the medical assistance programs fails to provide
19 medically necessary goods, services, or supplies or goods, services, or supplies
20 which are of substandard quality or quantity to a recipient, and those goods, services,
21 or supplies are covered under the managed care contract or voucher contract with the
22 medical assistance programs, such failure shall constitute a violation of Paragraph
23 (1) of this Subsection.

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

28 **J. No person shall knowingly make or cause to be made a claim under**
29 **the Medicaid program for:**

1 (1) A service or product that has not been approved or prescribed by a
2 treating physician or healthcare practitioner.

3 (2) A service or product that is substantially inadequate or inappropriate
4 when compared to generally recognized standards within the particular
5 discipline or within the healthcare industry; or used in a manner inconsistent
6 with its approved labeling or generally recognized standard of care within the
7 healthcare industry.

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

10 K. It shall be unlawful for a managed care organization or a
11 subcontractor to a managed care organization that contracts with the
12 department or other state agency to provide or arrange to provide healthcare
13 benefits or services to individuals eligible under the medical assistance
14 programs and knowingly:

15 (1) Fail to provide to an individual a healthcare benefit or service that
16 the organization is required to provide under the contract.

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

20 (3) Engage in a fraudulent activity in connection with the enrollment of
21 an individual eligible under the Medicaid program in the organization's
22 managed care plan or in connection with marketing the organization's services
23 to an individual eligible under the Medicaid program.

24 L. Make a claim under the medical assistance programs and knowingly
25 misrepresents the healthcare provider who actually provided the service when
26 such identification is necessary to obtain payment for the claim.

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

1 G. No action shall be brought under this Section unless the amount of alleged
2 actual damages is one thousand dollars or more.

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

5 * * *

6 §438.5. Civil monetary penalty

7 * * *

8 **F. Nothing in this Section shall be deemed to diminish a qui tam**
9 **plaintiff's rights under Subpart C of this Part.**

10 §438.6. Recovery

11 A. Actual damages. ~~(1)~~ Actual damages incurred as a result of a violation of
12 the provisions of this Part shall be recovered only once by the medical assistance
13 programs and shall not be waived by the court.

14 ~~(2) Except as provided by Paragraph (3) of this Subsection, actual damages~~
15 ~~shall equal the difference between what the medical assistance programs paid, or~~
16 ~~would have paid, and the amount that should have been paid had not a violation of~~
17 ~~this Part occurred plus interest at the maximum rate of legal interest provided by R.S.~~
18 ~~13:4202 from the date the damage occurred to the date of repayment.~~

19 ~~(3) If the violator is a managed care health care provider or a health care~~
20 ~~provider under a voucher program, actual damages shall be determined in accordance~~
21 ~~with the violator's provider agreement.~~

22 * * *

23 D. Costs, expenses, fees, and attorney fees.

24 * * *

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

28 * * *

29 §438.7. Reduced damages

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

5 * * *

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

11 §438.8. Burden of proof; prima facie evidence; standard of review

12 * * *

13 B. Proof by a preponderance of the evidence of a false or fraudulent claim
14 or illegal remuneration shall be deemed to exist under the following circumstances:

15 * * *

16 **(3) Notwithstanding any other provision of law, the Rules of Criminal**
17 **Procedure or the Rules of Evidence, a final judgment rendered in favor of the**
18 **state in any criminal proceeding charging fraud or false statements, whether**
19 **upon a verdict after trial or upon a plea of guilty or nolo contendere shall**
20 **prevent the defendant from denying the essential elements of the offense in any**
21 **action which involves the same transaction as in the criminal proceeding and**
22 **which is brought by the secretary or the attorney general pursuant to Subpart**
23 **B of this Part, or a qui tam plaintiff pursuant to Subpart C of this Part.**

24 * * *

25 D.(+) In determining whether a pattern of incorrect submissions exists in
26 regard to an alleged false or fraudulent claim, the court shall give consideration as
27 to whether the total amount of the incorrect submissions by a health care provider
28 is material in relation to the total claims submitted by the health care provider.

29 (2) ~~"Material" as used in this Subsection shall have the same meaning as~~

1 ~~defined by rules and regulation promulgated by the secretary in accordance with the~~
2 ~~Administrative Procedure Act which incorporate the same definition of "material"~~
3 ~~as recognized by the American Institute of Certified Public Accountants.~~

4 §439.1. Qui tam action, civil action filed by private person

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

12 * * *

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

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

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

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

24 * * *

25 F. ~~The court shall allow the secretary or the attorney general to intervene and~~
26 ~~proceed with the qui tam action in the district court at any time during the qui tam~~
27 ~~action proceedings.~~

28 G. Notwithstanding any other law to the contrary, a qui tam complaint and
29 information ~~filed with~~ **delivered to** the ~~secretary or attorney general~~ **state** shall not

1 be subject to discovery or become public record until judicial service of the qui tam
2 action is made on any of the defendants, except that the information contained
3 therein may be given to other governmental entities or their authorized agents for
4 review and investigation. The entities and their authorized agents shall maintain the
5 confidentiality of the information provided to them under this Subsection.

6 * * *

7 §439.2. Qui tam action procedures

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

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

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

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

20 (4)(a) The complaint and information filed with the court shall be made under
21 seal, shall remain under seal for at least ninety days from the date of filing, and shall
22 be served on the defendant when the seal is removed.

23 (b) For good cause shown, the ~~secretary or the attorney general~~ **state** may
24 move the court for extensions of time during which the petition remains under seal.
25 Any such motions may be supported by affidavits or other submissions in camera
26 and under seal.

27 B.(1) If the ~~secretary or the attorney general~~ **state** elects to intervene in the
28 action, the ~~secretary or the attorney general~~ **state** shall not be bound by any act of a
29 qui tam plaintiff. The ~~secretary or the attorney general~~ **state** shall control the qui tam

1 action proceedings on behalf of the state and the qui tam plaintiff may continue as
 2 a party to the action, **subject to the limitations set forth in this Section and**
 3 **Section R.S. 46:439.3.** For prescription purposes, any government complaint in
 4 intervention, whether filed separately or as an amendment to the ~~relator's~~ **qui tam**
 5 **plaintiff's** complaint, shall relate back to the filing date of the complaint, to the
 6 extent that the claim of the government arises out of the conduct, transactions, or
 7 occurrences set forth, or attempted to be set forth, in the ~~relator's~~ **qui tam plaintiff's**
 8 complaint.

9 (2) ~~The qui tam plaintiff and his counsel shall cooperate fully with the~~
 10 ~~secretary or the attorney during the pendency of the qui tam action.~~ **Upon a showing**
 11 **by the state that unrestricted participation during the course of the litigation by**
 12 **the person initiating the action would interfere with or unduly deal the**
 13 **government's prosecution of the case, or would be repetitious, irrelevant, or for**
 14 **purposes of harassment, the court may, in its discretion, impose limitation on**
 15 **the person's participation such as:**

16 **(a) Limiting the number of witnesses the person may call.**

17 **(b) Limiting the length of the testimony of such witnesses.**

18 **(c) Limiting the person's cross examination of witnesses.**

19 **(d) Otherwise limiting the participation by the person in the litigation.**

20 (3) If requested by the ~~secretary or the attorney general~~ **state** and
 21 notwithstanding the objection of the qui tam plaintiff, the court may dismiss the qui
 22 tam action provided the qui tam plaintiff has been notified by the ~~secretary or the~~
 23 ~~attorney general~~ **state** of the filing of the motion to dismiss and the court has
 24 provided the qui tam plaintiff a contradictory hearing on the motion.

25 (4)(a) ~~If the secretary or the attorney general does not intervene, the qui tam~~
 26 ~~plaintiff may proceed with the qui tam action unless the secretary or the attorney~~
 27 ~~general shows that proceeding would adversely affect the prosecution of any pending~~
 28 ~~criminal actions or criminal investigations into the activities of the defendant. Such~~
 29 ~~a showing shall be made to the court in camera and neither the qui tam plaintiff or~~

1 ~~the defendant shall be informed of the information revealed in camera. In which~~
 2 ~~case, the qui tam action shall be stayed for no more than one year~~ Whether or not
 3 the state proceeds with the action, upon a showing by the state that certain
 4 actions of discovery by the person initiating the action would interfere with the
 5 state's investigation or prosecution of a criminal or civil matter arising out of
 6 the same facts, the court may stay such discovery for a period of not more than
 7 sixty days. Such a showing shall be conducted in camera. The court may
 8 extend the sixty-day period upon a further showing in camera that the state has
 9 pursued the criminal or civil investigation or proceedings with reasonable
 10 diligence and any proposed discovery in the civil action will interfere with the
 11 ongoing criminal or civil investigation proceedings.

12 (b) When a qui tam plaintiff proceeds with the action, the court, without
 13 limiting the status and rights of the qui tam plaintiff, may nevertheless permit the
 14 secretary or the attorney general to intervene at a later date upon a showing of good
 15 cause.

16 (5) ~~If the qui tam plaintiff objects to a settlement of the qui tam action~~
 17 ~~proposed by the secretary or the attorney general, the court may authorize the~~
 18 ~~settlement only after a hearing to determine whether the proposed settlement is fair,~~
 19 ~~adequate, and reasonable under the circumstances~~ The state may settle the action
 20 with the defendant notwithstanding the objections of the person initiating the
 21 action if the court determines, after a hearing, that the proposed settlement is
 22 fair, adequate, and reasonable under all the circumstances. Upon a showing of
 23 good cause, such hearing may be held in camera.

24 * * *

25 E. ~~The~~ If the state elects not to proceed with the action, the qui tam
 26 plaintiff shall have the right to conduct the action. If the state requests, the qui
 27 tam plaintiff and the defendant shall serve the state with all pleadings and papers
 28 filed in the action, and supply the state with all copies of all deposition
 29 transcripts at the state's expense. as well as discovery, in the qui tam action on the

Proposed law prohibits any provider or provider-in-fact from failing to provide to LDH, attorney general, or legislative auditor or other appropriate state agency, information required to be provided by law, rule, or contractual provision.

Proposed law prohibits any person from knowingly making or causing to be made a claim under the Medicaid program for:

- (1) A service or product that has not been approved or prescribed by a treating physician or healthcare practitioner.
- (2) A service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the healthcare industry; or used in a manner inconsistent with its approved labeling or generally recognized standard of care within the healthcare industry.
- (3) A product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate.

Proposed law prohibits a managed care organization or a subcontractor to a managed care organization that contracts with LDH or other state agency to provide or arrange to provide healthcare benefits or services to individuals eligible under the medical assistance programs and knowingly:

- (1) Failing to provide to an individual a healthcare benefit or service that the organization is required to provide under the contract.
- (2) Failing to provide to the LDH, attorney general or legislative auditor or other appropriate state agency information required to be provided by law, rule, or contractual provision.
- (3) Engaging in a fraudulent activity in connection with the enrollment of an individual eligible under the Medicaid program in the organization's managed care plan or in connection with marketing the organization's services to an individual eligible under the Medicaid program.

Proposed law prohibits making a claim under the medical assistance programs and knowingly misrepresenting the healthcare provider who actually provided the service when such identification is necessary to obtain payment for the claim.

Proposed law provides that a final judgment rendered in favor of the state in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere prevents the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought by the secretary or the attorney general as a qui tam plaintiff in a qui tam action.

Present law provides that a "qui tam plaintiff" is a private person that may institute a civil action in the courts of this state on behalf of the medical assistance programs and himself to seek recovery for a violation.

Proposed law provides that upon a showing by the state that unrestricted participation during the course of the litigation by the person (the qui tam plaintiff) initiating the action would interfere with or unduly delay the government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitation on the person's participation such as:

- (1) Limiting the number of witnesses the person may call.

- (2) Limiting the length of the testimony of such witnesses.
- (3) Limiting the person's cross examination of witnesses.
- (4) Otherwise limiting the participation by the person in the litigation.

Proposed law provides that whether or not the state proceeds with the action, upon a showing by the state that certain actions of discovery by the person initiating the action would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court is authorized to stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation proceedings.

Proposed law authorizes the state to settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

Proposed law provides that if the state elects not to proceed with the action, the qui tam plaintiff has the right to conduct the action. Further, if the state requests, the qui tam plaintiff and the defendant are required to serve the state with all pleadings filed in the action, and supply the state with all copies of all deposition transcripts at the state's expense.

Effective August 1, 2020.

(Amends R.S. 46:437.3(7)-(11) and (14)-(28), 437.5, 438.1(A) and (C)(1), 438.3(A), (B), and (D)-(H), 438.6(A) and (D)(3), 438.7(3), 438.8(D), 439.1(A), (D)(1) and (F), 439.2(A), (B), and (E), and 439.4(A)(1), (C)(2), (F) and (G); adds R.S. 46:437.6(D), 437.7(E), 438.3(I)-(N), 438.5(F), and 438.8(B)(3); repeals R.S. 46:437.3(29) and (30), 439.1(G), 439.2(F), and 440.3)