

2025 Regular Session

HOUSE BILL NO. 560

BY REPRESENTATIVE EGAN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MEDICAID: Provides relative to the Medical Assistance Programs Integrity Act

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 * * *

1 B. ~~At a minimum, the settlement shall ensure that the recovery agreed to by~~
2 ~~the parties covers the estimated loss sustained by the medical assistance programs.~~
3 ~~The settlement shall include the method and means of payment for recovery,~~
4 ~~including but not limited to adequate security for the full amount of the settlement.~~
5 Nothing in this Section shall limit the rights of a qui tam plaintiff who brings a qui
6 tam action in accordance with Subpart of C of this Part.

7 §437.6. Injunctive relief; lis pendens; disclosure of property and liabilities

8 * * *

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

11 §437.7. Forfeiture of property for payment of recovery

12 * * *

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

15 * * *

16 §438.1. Civil actions authorized

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

24 * * *

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

28 (a) The action was instituted by the ~~secretary or attorney general~~ state
29 pursuant to Subsection A of this Section after it should have been determined by the

1 ~~secretary or attorney general~~ state to be frivolous, vexatious, or brought primarily for
2 the purpose of harassment.

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

7 * * *

8 §438.3. False or fraudulent claim; misrepresentation; unlawful acts

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

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

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

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

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

26 (2) If a managed care health care provider or a health care provider operating
27 under a voucher system under the medical assistance programs fails to provide
28 medically necessary goods, services, or supplies or goods, services, or supplies
29 which are of substandard quality or quantity to a recipient, and those goods, services,

1 or supplies are covered under the managed care contract or voucher contract with the
2 medical assistance programs, such failure shall constitute a violation of Paragraph
3 (1) of this Subsection.

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

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

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

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

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

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

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

25 (a) A hospital.

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

27 (c) A hospice.

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

29 (e) An assisted living facility.

1 (f) A home health agency.

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

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

7 I. No person shall defraud or attempt to defraud the medical assistance
8 programs through misrepresentation.

9 J. No person shall obtain or attempt to obtain payment for a false or
10 fraudulent claim.

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

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

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

21 (3) Engage in fraudulent activity in connection with the enrollment of an
22 individual eligible under the medical assistance program or in connection with
23 marketing the organization's services to an individual eligible under the medial
24 assistance programs.

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

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

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

6 * * *

7 §438.5. Civil monetary penalty

8 * * *

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

11 §438.6. Recovery

12 * * *

13 D.

14 * * *

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

18 §438.7. Reduced damages

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

23 * * *

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

1 §438.8. Burden of proof; prima facie evidence; standard of review

2 * * *

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

5 * * *

6 (3) Notwithstanding any other provision of law, rules of criminal procedure,
7 or the rules of evidence to the contrary, a final judgement rendered in favor the state
8 in any criminal proceeding charging fraud or false statements, whether upon a
9 verdict after trial or upon a plea of guilty or nolo contendere, shall prevent the
10 defendant from denying the essential elements of the offense in any action involving
11 the same transaction as in the criminal proceeding and brought by the secretary or
12 attorney general pursuant to Subpart B of this Section or a qui tam action pursuant
13 to Subpart C of this Section.

14 * * *

15 §439.1. Qui tam action, civil action filed by private person

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

22 * * *

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

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

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

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

5 (2) For the purposes of this Subsection, "original source" means an
6 individual who, prior to a public disclosure in accordance with this Subsection, has
7 voluntarily disclosed to the ~~government~~ state the information on which allegations
8 or transactions in a claim are based or who has knowledge that is independent of and
9 materially adds to the publicly disclosed allegations or transactions, and who has
10 voluntarily provided the information to the ~~government~~ state before filing an action
11 in accordance with this Subpart.

12 * * *

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

20 §439.2. Qui tam action procedures

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

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

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

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

5 (4)
6 * * *

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

11 * * *

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

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

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

- 1 (b) Limiting the length of a witnesses' testimony.
- 2 (c) Limiting the qui tam plaintiff's cross-examination of a witness.
- 3 (d) Otherwise limiting the participation of the qui tam plaintiff in the
- 4 litigation.

5 (3) If requested by the ~~secretary or the attorney general~~ state and
 6 notwithstanding the objection of the qui tam plaintiff, the court may dismiss the qui
 7 tam action provided the qui tam plaintiff has been notified by ~~the secretary or the~~
 8 ~~attorney general~~ state of the filing of the motion to dismiss and the court has
 9 provided the qui tam plaintiff a contradictory hearing on the motion.

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

26 * * *

27 (5) ~~If the qui tam plaintiff objects to a settlement of the qui tam action~~
 28 ~~proposed by the secretary or the attorney general, the court may authorize the~~
 29 ~~settlement only after a hearing to determine whether the proposed settlement is fair;~~

1 ~~adequate, and reasonable under the circumstances.~~ The state may settle the qui tam
2 action with the defendant notwithstanding the objection of the qui tam plaintiff if the
3 court determines, after a hearing, that the proposed settlement is fair, adequate, and
4 reasonable under all the circumstances. The court may conduct the hearing in
5 camera upon a showing of good cause.

6 * * *

7 E. If the state elects not to proceed with the action, the qui tam plaintiff shall
8 have the right to conduct the action. At the state's request, the ~~The~~ qui tam plaintiff
9 and the defendant shall serve all pleadings and papers filed, as well as discovery, in
10 ~~the qui tam action on the secretary and the attorney general~~ the state with all
11 pleadings in the action and supply the state with copies of all deposition transcripts
12 at the state's expense.

13 * * *

14 §439.4. Recovery awarded to a qui tam plaintiff

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

19 * * *

20 C.

21 * * *

22 (2) If the ~~secretary or the attorney general~~ state does not intervene and the
23 qui tam plaintiff conducts the action, the court ~~shall~~ may award costs, expenses, fees,
24 and attorney fees to a prevailing defendant if the court finds that the ~~allegations made~~
25 ~~by the qui tam plaintiff were meritless or brought primarily for the purposes of~~
26 ~~harassment.~~ claims of the qui tam plaintiff were clearly frivolous, clearly vexatious,
27 or primarily for the purposes of harassment. ~~A finding by the court that qui tam~~
28 ~~allegations were meritless or brought primarily for the purposes of harassment may~~
29 ~~be used by the prevailing defendant in the qui tam action or any other civil~~

1 ~~proceeding to recover losses or damages sustained as a result of the qui tam plaintiff~~
2 ~~filing and pursuing such a qui tam action.~~

3 * * *

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

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

12 Section 2. R.S. 46:437.3(7), (10), (15), (19), and (24), 438.6(A)(2) and (3),
13 438.8(D)(2), 439.1(F), 439.2(F), and 440.3 are hereby repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 560 Engrossed 2025 Regular Session Egan

Abstract: Provides relative to unlawful acts, procedures, and penalties arising out of fraudulent or false claims under Medicaid.

Present law defines certain terms.

Proposed law repeals the definition of "billing agent", "misrepresentation", "ineligible recipient", "recoupment" and "payment".

Present law provides that the secretary of the La. Department of Health (LDH) or the attorney general may institute an action involving Medicaid fraud and that either party may control the action pursuant to an agreement.

Proposed law retains present law and provides that secretary of LDH may only pursue an action under present law if he first refers the matter to the attorney general and the attorney general notifies the secretary that he declines to proceed with the action.

Proposed law clarifies that while the attorney general or the secretary of LDH may bring an action for Medicaid fraud or abuse either entity shall bring an action on behalf of the state, and the state shall be the proper party in the action.

Proposed law makes changes throughout proposed law to reflect the use of "state" when describing secretary and attorney general as a party to a legal action.

Present law authorizes the attorney general or the secretary to institute a civil action against an entity or individual for fraudulent or unlawful actions relative to the medical assistance programs commonly known as Medicaid.

Proposed law states that the attorney general shall diligently investigate a instances of Medicaid fraud or abuse.

Present law provides that no person shall make a false statement about a payment to Medicaid to knowingly conceal, decrease, or avoid such payment.

Proposed law adds that no person shall obtain or attempt to obtain payment for a false or fraudulent claim to Medicaid.

Present law provides that no person shall conspire to defraud Medicaid.

Proposed law modifies present law to add that no person shall conspire to commit an act of Medicaid fraud listed in present law.

Proposed law adds that no person shall make or induce a false statement or a misrepresentation of a material fact concerning the conditions or operation of healthcare facility in order to obtain certification or recertification for the purposes of Medicaid payments.

Proposed law adds that no person or healthcare provider shall make or induce a false statement or a misrepresentation of a material fact concerning information the person is required to produce by federal or state law, rule, regulation, or provider.

Present law states that no person shall knowingly submit a claim for goods, services, or supplies to Medicaid that are medically unnecessary or of a substandard quality or quantity.

Proposed law states that no person shall knowingly submit a claim to Medicaid for reimbursement if for any of the following:

- (1) A service or product that has not been approved or prescribed by a treating healthcare provider.
- (2) A service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the healthcare discipline.
- (3) A product that is adulterated, debased, mislabeled, or otherwise made inappropriate.

Proposed law prohibits a managed care organization or a subcontractor to a managed care organization that contracts with the state to provide Medicaid to eligible individuals for knowingly doing any of the following:

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

Proposed law states that no person shall make a claim under Medicaid and knowingly misrepresent the identification of the healthcare provider who actually provided the services when such identification is necessary to obtain payment for the claim.

Present law states that the state shall not bring a civil action unless the amount of actual damages is \$1,000 or more.

Proposed law repeals present law.

Present law states that recovery of damage against a individual or entity that commits Medicaid fraud shall equal the difference from the amount that Medicaid paid or would have paid and the amount that should have been paid plus interest from the date the damage occurred unless the violator is a managed care organization or health care provider under a voucher program. Present law further states that actual damages for violater that is a managed care organization or health care provider under a voucher program is determined in accordance with the violators provider agreement.

Proposed law repeals present law.

Present law authorizes the court to reduce damages to not less than twice the actual damages or any recovery imposed by present law upon the request of the attorney general if all of following circumstances are found to be applicable:

- (1) The violator provided all the information known to him to the attorney general or secretary no later than 30 days after the violator first obtained the information.
- (2) The violator cooperated fulling with all federal or state investigations concerning the specific allegation.
- (3) No criminal, civil, or departmental investigation or proceeding had been commenced on the alleged violation by the attorney general or secretary.

Proposed law modifies present law to add the requirement that the violator did not have actual knowledge of the existence of an investigation by the state into such a violation.

Present law states that 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:

- (1) The defendant has pled guilty to, been convicted, or entered a plea of nolo contendere to a criminal charge in any federal or state court to charges arising out of the same circumstances as would be violation of present law.
- (2) If an order has been rendered against an defendant finding the defendant to have violated present law.

Proposed law adds to present law that if a final judgement is rendered in favor of the state in any criminal proceeding charging fraud or false statements that proof of a false or fraudulent claim will be deemed to exist, notwithstanding any other contrary provision of law, rules of criminal procedure, or the rules of evidence, and will prevent the defendant from denying the essential elements of the offense in any action involving the same transaction as in the criminal proceeding in any action brought under present law.

Present law defines "material".

Proposed law repeals present law.

Present law permits a private person to institute a civil action, known as qui tam action, in the courts of this state on behalf of the state and himself to seek recovery for a violation related to Medicaid fraud.

Present law provides that the attorney general may intervene and become a party in qui tam action.

Proposed law provides that the action may be dismissed only if the court and the attorney general give written consent to the dismissal and reasons for consenting.

Present law requires the court to dismiss an qui tam action in accordance with present law, unless opposed by the state, if substantially the same allegations or transactions as alleged in the action were publicly disclosed in any of the following:

- (1) A criminal, civil, or administrative hearing in which the state was a party.
- (2) The new media, unless the action is brought by the attorney general or the qui tam plaintiff is an original source of information.

Proposed law modifies present law adding a requirement that court to dismiss a qui tam action unless the qui tam action is brought by the state or the qui tam plaintiff is an original source of the information.

Present law provides that a qui tam action shall be captioned: "Medical Assistance Programs Ex. Rel.: [insert name of qui tam plaintiff(s)] v. [insert name of defendant(s)]".

Proposed law modifies present law providing that a qui tam action shall be captioned: "State of Louisiana Ex. Rel.: [insert name of qui tam plaintiff(s)] v. [insert name of defendant(s)]".

Present law provides that the qui tam plaintiff and his counsel shall cooperate fully with the secretary and attorney general during the pendency of a qui tam action.

Proposed law repeals present law.

Proposed law provides that upon a showing by the state that during the course of the litigation by a qui tam plaintiff that the qui tam action would interfere with or unduly delay the state's prosecution of the case, or it would be repetitious, irrelevant, or the purpose of harassment, the court may impose limitations on the qui tam plaintiff's participation in the action.

Present law provides that if the attorney general does not intervene in a qui tam action, the qui tam plaintiff may proceed with the qui tam action absent a showing by the attorney general that the proceeding would adversely affect the prosecution of any criminal actions or criminal investigations in the activities of the defendant. Present law further provides that a such a showing would be made in camera, confidentially, to the court who may stay the proceedings for more no more than one year.

Proposed law repeals present law.

Present law states that the attorney general or secretary may settle a qui tam action over the objection of a qui tam plaintiff if the court determines, after a hearing, that the settlement is fair, adequate, and reasonable under the circumstances.

Proposed law modifies present law adding that the court may conduct a hearing in accordance with present law in camera upon a showing of good cause.

Proposed law states that if the state does not elect to proceed with the qui tam action, the qui tam plaintiff may continue the action, and, at the states request, the qui tam plaintiff shall supply the state with all pleadings and copies of depositions transcripts at the state's expense.

Present law states that a finding by the court, in a qui tam action in which the attorney general or secretary do not intervene, that the qui tam plaintiff's claims were meritless or brought primarily for the purpose of harassment may be used by the defendant in the qui tam action or other civil proceeding to recover losses or damages sustained as a result of the qui tam plaintiff filing and pursuing such a qui tam action.

Proposed law repeals present law.

Present law contains protections for employees and individuals who cooperate or take any lawful action in furtherance of civil or criminal action related to Medicaid fraud, commonly known as whistleblower protections. Present law further provides a cause of action for an employee to seek relief for violations of the whistleblower protections.

Proposed law repeals present law.

(Amends R.S. 46:437.3(intro. para.), (11), (14), and (29), 437.5(B), 438.1(A) and (C)(1)(a) and (b), 438.3, 438.6(D)(3), 438.7(3), 439.1(A),(D), and (G), 439.2(A)(1), (2), (3), and (4)(b), (B)(1), (2), (3), (4)(a), and (5), and (E), and 439.4(A)(1), (C)(2), (F), and (G); Adds R.S. 46:437.3(31), 437.6(D), 437.7(E), 438.5(F), 438.8(B)(3); Repeals R.S. 46:437.3(7), (10), (15), (19), and (24), 438.6(A)(2) and (3), 438.8(D)(2), 439.1(F), 439.2(F), and 440.3)

Summary of Amendments Adopted by House

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

1. Make technical changes.
2. Change the entity that a violator of present law must furnish information concerning an allegation to be eligible for reduced damages from the department and the attorney general to the state.
3. Repeal definitions for "ineligible recipient" and "recoupment".