



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB0071

Introduced 1/9/2013, by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

See Index

Amends the Public Assistance Fraud Article of the Illinois Public Aid Code. Provides that (i) any person who knowingly obtains unauthorized medical benefits or causes to be obtained unauthorized medical benefits (rather than knowingly obtains unauthorized medical benefits) with or without use of a medical card; (ii) any vendor that knowingly assists or knowingly or willfully fails to prevent a person from committing specified violations; or (iii) any person (including a vendor, organization, agency, or other entity) that, in any matter related to the medical assistance program, knowingly or willfully falsifies, conceals, or omits by any trick, scheme, artifice, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry in connection with the provision of health care or related services commits medical assistance fraud. Sets forth conduct that constitutes managed health care fraud. Enhances the criminal penalty, from a Class A misdemeanor to a Class 4 felony, for any person, firm, corporation, association, agency, institution, or other legal entity that, in any matter related to a State or federally funded or mandated health plan, knowingly and willfully makes a false statement in connection with the provision of health care or related services. Provides that no person shall willfully obstruct criminal investigations of health care offenses and makes a violation a Class 4 felony. Effective immediately.

LRB098 02586 KTG 32591 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Sections 8A-2.5, 8A-13, and 8A-15 and by adding
6 Section 8A-18 as follows:

7 (305 ILCS 5/8A-2.5)

8 Sec. 8A-2.5. Unauthorized use of medical assistance.

9 (a) Any person who knowingly uses, acquires, possesses, or
10 transfers a medical card in any manner not authorized by law or
11 by rules and regulations of the Illinois Department, or who
12 knowingly alters a medical card, or who knowingly uses,
13 acquires, possesses, or transfers an altered medical card, is
14 guilty of a violation of this Article and shall be punished as
15 provided in Section 8A-6.

16 (b) Any person who knowingly obtains unauthorized medical
17 benefits or causes to be obtained unauthorized medical benefits
18 with or without use of a medical card is guilty of a violation
19 of this Article and shall be punished as provided in Section
20 8A-6.

21 (b-5) Any vendor that knowingly assists or knowingly or
22 willfully fails to prevent a person from committing a violation
23 under subsection (a) or (b) of this Section is guilty of a

1 violation of this Article and shall be punished as provided in
2 Section 8A-6.

3 (b-6) Any person (including a vendor, organization,
4 agency, or other entity) that, in any matter related to the
5 medical assistance program, knowingly or willfully falsifies,
6 conceals, or omits by any trick, scheme, artifice, or device a
7 material fact, or makes any false, fictitious, or fraudulent
8 statement or representation, or makes or uses any false writing
9 or document, knowing the same to contain any false, fictitious,
10 or fraudulent statement or entry in connection with the
11 provision of health care or related services, is guilty of a
12 violation of this Article and shall be punished as provided in
13 Section 8A-6.

14 (c) The Department may seek to recover any and all State
15 and federal monies for which it has improperly and erroneously
16 paid benefits as a result of a fraudulent action and any civil
17 penalties authorized in this Section. Pursuant to Section
18 11-14.5 of this Code, the Department may determine the monetary
19 value of benefits improperly and erroneously received. The
20 Department may recover the monies paid for such benefits and
21 interest on that amount at the rate of 5% per annum for the
22 period from which payment was made to the date upon which
23 repayment is made to the State. Prior to the recovery of any
24 amount paid for benefits allegedly obtained by fraudulent
25 means, the recipient or payee of such benefits shall be
26 afforded an opportunity for a hearing after reasonable notice.

1 The notice shall be served personally or by certified or
2 registered mail or as otherwise provided by law upon the
3 parties or their agents appointed to receive service of process
4 and shall include the following:

5 (1) A statement of the time, place and nature of the
6 hearing.

7 (2) A statement of the legal authority and jurisdiction
8 under which the hearing is to be held.

9 (3) A reference to the particular Sections of the
10 substantive and procedural statutes and rules involved.

11 (4) Except where a more detailed statement is otherwise
12 provided for by law, a short and plain statement of the
13 matters asserted, the consequences of a failure to respond,
14 and the official file or other reference number.

15 (5) A statement of the monetary value of the benefits
16 fraudulently received by the person accused.

17 (6) A statement that, in addition to any other
18 penalties provided by law, a civil penalty in an amount not
19 to exceed \$2,000 may be imposed for each fraudulent claim
20 for benefits or payments.

21 (7) A statement providing that the determination of the
22 monetary value may be contested by petitioning the
23 Department for an administrative hearing within 30 days
24 from the date of mailing the notice.

25 (8) The names and mailing addresses of the
26 administrative law judge, all parties, and all other

1 persons to whom the agency gives notice of the hearing
2 unless otherwise confidential by law.

3 An opportunity shall be afforded all parties to be
4 represented by legal counsel and to respond and present
5 evidence and argument.

6 Unless precluded by law, disposition may be made of any
7 contested case by stipulation, agreed settlement, consent
8 order, or default.

9 Any final order, decision, or other determination made,
10 issued or executed by the Director under the provisions of this
11 Article whereby any person is aggrieved shall be subject to
12 review in accordance with the provisions of the Administrative
13 Review Law, and the rules adopted pursuant thereto, which shall
14 apply to and govern all proceedings for the judicial review of
15 final administrative decisions of the Director.

16 Upon entry of a final administrative decision for repayment
17 of any benefits obtained by fraudulent means, or for any civil
18 penalties assessed, a lien shall attach to all property and
19 assets of such person, firm, corporation, association, agency,
20 institution, vendor, or other legal entity until the judgment
21 is satisfied.

22 Within 18 months of the effective date of this amendatory
23 Act of the 96th General Assembly, the Department of Healthcare
24 and Family Services will report to the General Assembly on the
25 number of fraud cases identified and pursued, and the fines
26 assessed and collected. The report will also include the

1 Department's analysis as to the use of private sector resources
2 to bring action, investigate, and collect monies owed.

3 (Source: P.A. 96-1501, eff. 1-25-11; 97-23, eff. 1-1-12.)

4 (305 ILCS 5/8A-13)

5 Sec. 8A-13. Managed health care fraud.

6 (a) As used in this Section, "health plan" means any of the
7 following:

8 (1) Any health care reimbursement plan sponsored
9 wholly or partially by the State.

10 (2) Any private insurance carrier, health care
11 cooperative or alliance, health maintenance organization,
12 insurer, organization, entity, association, affiliation,
13 or person that contracts to provide or provides goods or
14 services that are reimbursed by or are a required benefit
15 of a health benefits program funded wholly or partially by
16 the State.

17 (3) Anyone who provides or contracts to provide goods
18 and services to an entity described in paragraph (1) or (2)
19 of this subsection.

20 For purposes of item (2) in subsection (b),
21 "representation" and "statement" include, but are not limited
22 to, reports, claims, certifications, acknowledgments and
23 ratifications of financial information, enrollment claims,
24 demographic statistics, encounter data, health services
25 available or rendered, and the qualifications of person

1 rendering health care and ancillary services.

2 (b) Any person, firm, corporation, association, agency,
3 institution, or other legal entity that, with the intent to
4 obtain benefits or payments under this Code to which the person
5 or entity is not entitled or in a greater amount than that to
6 which the person or entity is entitled, knowingly, or
7 willfully: ~~executes or conspires to execute a scheme or~~
8 ~~artifice~~

9 (1) executes or conspires to execute a scheme or
10 artifice to defraud any State or federally funded or
11 mandated health plan in connection with the delivery of or
12 payment for health care benefits, items, or services; ~~or~~

13 (2) executes or conspires to execute a scheme or
14 artifice to obtain by means of false or fraudulent
15 pretense, representation, statement, or promise money or
16 anything of value in connection with the delivery of or
17 payment for health care benefits, items, or services that
18 are in whole or in part paid for, reimbursed, or subsidized
19 by, or are a required benefit of, a State or federally
20 funded or mandated health plan;

21 (3) falsifies, conceals, or covers up by any trick,
22 scheme, or device a material fact in connection with the
23 delivery of or payment for health care benefits, items, or
24 services that are in whole or in part paid for or
25 reimbursed by a State or federal health plan;

26 (4) makes any materially false, fictitious, or

1 fraudulent statements or representations, or makes or uses
2 any materially false writing or document knowing the same
3 to contain any materially false, fictitious, or fraudulent
4 statement or entry, in connection with the delivery of or
5 payment for health care benefits, items, or services that
6 are in whole or in part paid for or reimbursed by a State
7 or federal health plan; or

8 (5) makes or uses any false writing or document knowing
9 the same to contain any materially false, fictitious, or
10 fraudulent statement or entry in connection with the
11 delivery of or payment for health care benefits, items, or
12 services that are in whole or in part paid for or
13 reimbursed by a State or federal health plan

14 is guilty of a violation of this Article and shall be punished
15 as provided in Section 8A-6.

16 (Source: P.A. 90-538, eff. 12-1-97.)

17 (305 ILCS 5/8A-15)

18 Sec. 8A-15. False statements relating to health care
19 delivery. Any person, firm, corporation, association, agency,
20 institution, or other legal entity that, in any matter related
21 to a State or federally funded or mandated health plan,
22 knowingly and wilfully falsifies, conceals, or omits by any
23 trick, scheme, artifice, or device a material fact, or makes
24 any false, fictitious, or fraudulent statement or
25 representation, or makes or uses any false writing or document,

1 knowing the same to contain any false, fictitious, or
2 fraudulent statement or entry in connection with the provision
3 of health care or related services, is guilty of a Class 4
4 felony ~~A misdemeanor~~.

5 (Source: P.A. 90-538, eff. 12-1-97.)

6 (305 ILCS 5/8A-18 new)

7 Sec. 8A-18. Obstruction of criminal investigations of
8 health care offenses.

9 (a) Whoever willfully prevents, obstructs, misleads,
10 delays or attempts to prevent, obstruct, mislead, or delay the
11 communication of information or records relating to a violation
12 of a federal or State health care offense to a criminal
13 investigator is guilty of a Class 4 felony.

14 (b) As used in this Section, "criminal investigator" means
15 any individual duly authorized by a department or agency of the
16 United States or of this State to conduct or engage in
17 investigations for prosecutions for violations of health care
18 offenses.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 305 ILCS 5/8A-2.5

4 305 ILCS 5/8A-13

5 305 ILCS 5/8A-15

6 305 ILCS 5/8A-18 new