



Rep. Kelly M. Cassidy

Filed: 3/15/2013

09800HB0071ham001

LRB098 02586 KTG 43206 a

1 AMENDMENT TO HOUSE BILL 71

2 AMENDMENT NO. _____. Amend House Bill 71 by replacing
3 everything after the enacting clause with the following:

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

6 (305 ILCS 5/8A-2.5)

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

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

15 (b) Any person who knowingly obtains unauthorized medical
16 benefits or causes to be obtained unauthorized medical benefits

1 with or without use of a medical card is guilty of a violation
2 of this Article and shall be punished as provided in Section
3 8A-6.

4 (b-5) Any vendor that knowingly assists a person in
5 committing a violation under subsection (a) or (b) of this
6 Section is guilty of a violation of this Article and shall be
7 punished as provided in Section 8A-6.

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

19 (c) The Department may seek to recover any and all State
20 and federal monies for which it has improperly and erroneously
21 paid benefits as a result of a fraudulent action and any civil
22 penalties authorized in this Section. Pursuant to Section
23 11-14.5 of this Code, the Department may determine the monetary
24 value of benefits improperly and erroneously received. The
25 Department may recover the monies paid for such benefits and
26 interest on that amount at the rate of 5% per annum for the

1 period from which payment was made to the date upon which
2 repayment is made to the State. Prior to the recovery of any
3 amount paid for benefits allegedly obtained by fraudulent
4 means, the recipient or payee of such benefits shall be
5 afforded an opportunity for a hearing after reasonable notice.
6 The notice shall be served personally or by certified or
7 registered mail or as otherwise provided by law upon the
8 parties or their agents appointed to receive service of process
9 and shall include the following:

10 (1) A statement of the time, place and nature of the
11 hearing.

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

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

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

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

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

26 (7) A statement providing that the determination of the

1 monetary value may be contested by petitioning the
2 Department for an administrative hearing within 30 days
3 from the date of mailing the notice.

4 (8) The names and mailing addresses of the
5 administrative law judge, all parties, and all other
6 persons to whom the agency gives notice of the hearing
7 unless otherwise confidential by law.

8 An opportunity shall be afforded all parties to be
9 represented by legal counsel and to respond and present
10 evidence and argument.

11 Unless precluded by law, disposition may be made of any
12 contested case by stipulation, agreed settlement, consent
13 order, or default.

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

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

1 Within 18 months of the effective date of this amendatory
2 Act of the 96th General Assembly, the Department of Healthcare
3 and Family Services will report to the General Assembly on the
4 number of fraud cases identified and pursued, and the fines
5 assessed and collected. The report will also include the
6 Department's analysis as to the use of private sector resources
7 to bring action, investigate, and collect monies owed.

8 (d) In subsections (a), (b), (b-5) and (b-6), "knowledge"
9 has the meaning ascribed to that term in Section 4-5 of the
10 Criminal Code of 2012. For any administrative action brought
11 under subsection (c) pursuant to a violation of this Section,
12 the Department shall define "knowing" by rule.

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

14 (305 ILCS 5/8A-13)

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

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

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

20 (2) Any private insurance carrier, health care
21 cooperative or alliance, health maintenance organization,
22 insurer, organization, entity, association, affiliation,
23 or person that contracts to provide or provides goods or
24 services that are reimbursed by or are a required benefit
25 of a health benefits program funded wholly or partially by

1 the State.

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

5 For purposes of item (2) in subsection (b),
6 "representation" and "statement" include, but are not limited
7 to, reports, claims, certifications, acknowledgments and
8 ratifications of financial information, enrollment claims,
9 demographic statistics, encounter data, health services
10 available or rendered, and the qualifications of person
11 rendering health care and ancillary services.

12 (b) Any person, firm, corporation, association, agency,
13 institution, or other legal entity that, with the intent to
14 obtain benefits or payments under this Code to which the person
15 or entity is not entitled or in a greater amount than that to
16 which the person or entity is entitled, knowingly or willfully:
17 ~~executes or conspires to execute a scheme or artifice~~

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

22 (2) executes or conspires to execute a scheme or
23 artifice to obtain by means of false or fraudulent
24 pretense, representation, statement, or promise money or
25 anything of value in connection with the delivery of or
26 payment for health care benefits, items, or services that

1 are in whole or in part paid for, reimbursed, or subsidized
2 by, or are a required benefit of, a State or federally
3 funded or mandated health plan;

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

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

17 (5) makes or uses any false writing or document knowing
18 the same to contain any materially false, fictitious, or
19 fraudulent statement or entry in connection with the
20 delivery of or payment for health care benefits, items, or
21 services that are in whole or in part paid for or
22 reimbursed by a State or federal health plan;

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

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

1 (305 ILCS 5/8A-15)

2 Sec. 8A-15. False statements relating to health care
3 delivery. Any person, firm, corporation, association, agency,
4 institution, or other legal entity that, in any matter related
5 to a State or federally funded or mandated health plan,
6 knowingly and wilfully falsifies, conceals, or omits by any
7 trick, scheme, artifice, or device a material fact, or makes
8 any false, fictitious, or fraudulent statement or
9 representation, or makes or uses any false writing or document,
10 knowing the same to contain any false, fictitious, or
11 fraudulent statement or entry in connection with the provision
12 of health care or related services, is guilty of a Class 4
13 felony ~~A misdemeanor~~.

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

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."