

1 HB110  
2 147788-5  
3 By Representative McClendon  
4 RFD: State Government  
5 First Read: 05-FEB-13  
6 PFD: 02/01/2013

1 ENGROSSED

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3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 Relating to Medicaid fraud; to enact The Medicaid  
9 Fraud Reduction Act of 2013; to amend Section 22-1-11 of the  
10 Code of Alabama 1975, relating to Medicaid fraud, to prohibit  
11 certain fraudulent conduct in obtaining medical benefits from  
12 the Medicaid Agency, to provide for a definition of person  
13 under the law, and to provide for a statute of limitations;  
14 and in connection therewith to have as its purpose or effect  
15 the requirement of a new or increased expenditure of local  
16 funds within the meaning of Amendment 621 of the Constitution  
17 of Alabama of 1901, now appearing as Section 111.05 of the  
18 Official Recompilation of the Constitution of Alabama of 1901,  
19 as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. This bill shall be known and may be cited  
22 as The Medicaid Fraud Reduction Act of 2013.

23 Section 2. Section 22-1-11 of the Code of Alabama  
24 1975, is amended to read as follows:

25 "§22-1-11.

26 "~~(a) Any person who, with intent to defraud or~~  
27 ~~deceive, makes, or causes to be made or assists in the~~

1 ~~preparation of any false statement, representation, or~~  
2 ~~omission of a material fact in any claim or application for~~  
3 ~~any payment, regardless of amount, from the Medicaid Agency,~~  
4 ~~knowing the same to be false; or with intent to defraud or~~  
5 ~~deceive, makes, or causes to be made, or assists in the~~  
6 ~~preparation of any false statement, representation, or~~  
7 ~~omission of a material fact in any claim or application for~~  
8 ~~medical benefits from the Medicaid Agency, knowing the same to~~  
9 ~~be false; shall be guilty of a felony and upon conviction~~  
10 ~~thereof shall be fined not more than ten thousand dollars~~  
11 ~~(\$10,000) or imprisoned for not less than one nor more than~~  
12 ~~five years, or both. The offense set out herein shall not be~~  
13 ~~complete until the claim or application is received by the~~  
14 ~~Medicaid Agency or the contractor with the Medicaid Agency or~~  
15 ~~its successor.~~

16 "(a) (1) It shall be unlawful for any person to  
17 knowingly do any of the following:

18 "a. Fail, by false statement, misrepresentation,  
19 impersonation, or other fraudulent means, to disclose a  
20 material fact used in making a determination as to the  
21 qualification of the person to receive medical benefits from  
22 the Medicaid Agency.

23 b. Fail to disclose a change in circumstances in  
24 order to obtain or continue to receive any medical benefits  
25 from the Medicaid Agency to which he or she is not entitled or  
26 in an amount larger than that to which he or she is entitled.

1           "c. Aid and abet another person in the commission of  
2 the prohibitions enumerated in subdivisions (a)(1)a. and  
3 (a)(1)b.

4           "d. Use, transfer, acquire, traffic, alter, forge,  
5 possess, attempt to use, attempt to transfer, attempt to  
6 acquire, attempt to traffic, attempt to alter, attempt to  
7 forge, attempt to possess, or aid and abet another person in  
8 the use, transfer, acquisition, traffic, alteration, forgery,  
9 or possession of a Medicaid identification card in any manner  
10 not authorized by law.

11           "e. File, attempt to file, or aid and abet in the  
12 filing of a claim for services to a recipient of medical  
13 benefits from the Medicaid Agency for services that were not  
14 rendered.

15           "f. File a false claim for items or services to the  
16 Medicaid Agency. For purposes of this subdivision, a false  
17 claim is any wholly or partially untrue, or deceptive, attempt  
18 to cause a health care payer to make a health care payment.

19           "g. Bill the recipient of medical benefits from the  
20 Medicaid Agency, or his or her family, for an amount in excess  
21 of that provided for by law or regulation if the Medicaid  
22 provider has billed the Medicaid Agency for services.

23           "h. Fail to credit the state or its agents for  
24 payments received from Social Security, insurance, or other  
25 sources for services rendered to a Medicaid recipient which  
26 the Medicaid provider has billed the Medicaid Agency.

1           "i. In any way receive, attempt to receive, or aid  
2 and abet in the receipt of unauthorized payments or other  
3 unauthorized public assistance or authorization or  
4 identification to obtain medical benefits from the Medicaid  
5 Agency.

6           "(2)a. A person who pleads guilty or is found guilty  
7 by a court of competent jurisdiction of violating this  
8 subsection, and the amount of the fraud is five hundred  
9 dollars (\$500) or more, shall be guilty of a Class C felony.

10           "b. A person who pleads guilty or is found guilty by  
11 a court of competent jurisdiction of violating this  
12 subsection, and the amount of the fraud is less than five  
13 hundred dollars (\$500), shall be guilty of a Class A  
14 misdemeanor.

15           "c. Notwithstanding any other law to the contrary, a  
16 provider of Medicaid services who pleads guilty or is found  
17 guilty by a court of competent jurisdiction of violating this  
18 subsection, regardless of the amount, shall be excluded from  
19 participating in any program administered by the Medicaid  
20 Agency for a minimum of three years.

21           "(3) For the purposes of this section, the term  
22 "fraud" includes, but is not limited to, knowingly introducing  
23 fraudulent Medicaid records into a computer system, the  
24 unauthorized use of computer facilities, the intentional or  
25 deliberate alteration or destruction of computerized Medicaid  
26 information or files, and the stealing of Medicaid financial  
27 instruments, data, and other assets.

1           "(4) Repayment of medical benefits or return of  
2 authorization or identification wrongfully obtained is not a  
3 defense to, or ground for dismissal of, criminal charges  
4 brought under this section.

5           "(5) The introduction into evidence of a paid state  
6 warrant to the order of a Medicaid provider or Medicaid  
7 recipient is prima facie evidence that the provider or  
8 recipient received medical payments or benefits from the  
9 Medicaid Agency.

10           "(6) The introduction into evidence of a transaction  
11 history generated by a personal identification number (PIN)  
12 establishing a purchase or withdrawal by electronic benefit  
13 transfer is prima facie evidence that the identified recipient  
14 received medical benefits from the Medicaid Agency.

15           "(7) The Medicaid Agency shall create an error-prone  
16 or fraud-prone case profile within its information system and  
17 shall screen each application for Medicaid benefits against  
18 the profile to identify cases that have a potential for error  
19 or fraud. Each case identified as having a potential for error  
20 or fraud shall be subjected to preeligibility/fraud screening.

21           "(b) Any person who knowingly solicits or receives  
22 any remuneration, including any kickback, bribe, or rebate,  
23 directly or indirectly, overtly or covertly, in cash or in  
24 kind:

25           "(1) In return for referring an individual to a  
26 person for the furnishing or arranging for the furnishing of

1 any item or service for which payment may be made in whole or  
2 in part by the Medicaid Agency or its agents, or

3 "(2) In return for purchasing, leasing, ordering, or  
4 arranging for or recommending purchasing, leasing, or ordering  
5 any good, facility, service, or item for which payment may be  
6 made in whole or in part by the Medicaid Agency, or its agents  
7 shall be guilty of a Class C felony ~~and upon conviction~~  
8 ~~thereof, shall be fined not more than ten thousand dollars~~  
9 ~~(\$10,000) or imprisoned for not less than one nor more than~~  
10 ~~five years, or both.~~

11 "(c) Any person who knowingly offers or pays any  
12 remuneration including any kickback, bribe, or rebate directly  
13 or indirectly, overtly or covertly, in cash or in kind to any  
14 person to induce a person to refer an individual to a person  
15 for the furnishing or arranging for the furnishing of any item  
16 or service for which payment may be made in whole or in part  
17 by the Medicaid Agency or its agents, or to purchase, lease,  
18 order, or arrange for or recommend purchasing, leasing, or  
19 ordering any good, facility, service, or item for which  
20 payment may be made in whole or in part by the Medicaid  
21 Agency, or its agents, shall be guilty of a Class C felony ~~and~~  
22 ~~upon conviction thereof shall be fined not more than ten~~  
23 ~~thousand dollars (\$10,000) or imprisoned for not less than one~~  
24 ~~nor more than five years, or both.~~

25 "(d) (1) Any provider of Medicaid services who  
26 submits a claim for or receives payment for a good or a  
27 service under the Medicaid program, shall maintain the records

1 necessary to disclose fully the nature of a good or a service  
2 for which a claim was submitted or payment was received for a  
3 period of not less than five years following the date on which  
4 payment was received.

5 "(2) Any person or provider who knowingly fails to  
6 keep the records required by this subsection or who knowingly  
7 destroys the records within five years from the date payment  
8 was received is guilty of a Class A misdemeanor.

9 "~~(d)~~ (e) Subsections (b) and (c) of this section  
10 shall not apply to a discount or other reduction in price  
11 obtained by a provider of services or other entity under  
12 Medicaid if the reduction in price is properly disclosed and  
13 appropriately reflected in costs claimed or charges made by  
14 the provider or entity to the Medicaid Agency or its agents,  
15 or any amount paid by an employer to an employee who has a  
16 bona fide employment relationship with employer for employment  
17 in the provision of covered items or services.

18 "~~(e)~~ (f) Any two or more offenses in violation of  
19 this section may be charged in the same indictment in separate  
20 counts for each offense and the offense shall be tried  
21 together, with separate sentences being imposed for each  
22 offense for which the defendant is found guilty.

23 "(g) For purposes of this section, the term "person"  
24 includes an individual, corporation, partnership, or  
25 association.



1           "(h) Notwithstanding any other provisions of law,  
2           prosecution of an offense under this section must be commenced  
3           within five years after the commission of the offense.

4           "(i) The offenses set out herein shall not be  
5           complete until the claim or application is received by the  
6           Medicaid Agency or the contractor with the Medicaid Agency or  
7           its successor."

8           Section 3. (a) Notwithstanding any other  
9           appropriation heretofore or hereafter made, there is hereby  
10          appropriated from the State General Fund to the Office of the  
11          Attorney General the sum of \$250,000 for the fiscal year  
12          ending September 30, 2014; the sum of \$250,000 for the fiscal  
13          year ending September 30, 2015; and the sum of \$250,000 for  
14          the fiscal year ending September 30, 2016. This appropriation  
15          shall be earmarked for the Medicaid Fraud Control Unit.

16          (b) Notwithstanding any other appropriation  
17          heretofore or hereafter made, there is hereby appropriated  
18          from the State General Fund to the Alabama Medicaid Agency the  
19          sum of \$1,000,000 for the fiscal year ending September 30,  
20          2014. This appropriation shall be earmarked for the agency's  
21          efforts to comply with Section 22-1-11(a) (7) of the Code of  
22          Alabama 1975.

23          Section 4. The provisions of this act are severable.  
24          If any section, portion, or provision of this act is declared  
25          unconstitutional, that declaration shall not affect the  
26          remaining sections, portions, or provisions of this bill.

1                   Section 5. All laws or parts of laws which conflict  
2 with this act are repealed.

3                   Section 6. Although this bill would have as its  
4 purpose or effect the requirement of a new or increased  
5 expenditure of local funds, the bill is excluded from further  
6 requirements and application under Amendment 621, now  
7 appearing as Section 111.05 of the Official Recompilation of  
8 the Constitution of Alabama of 1901, as amended, because the  
9 bill defines a new crime or amends the definition of an  
10 existing crime.

11                   Section 7. This act shall become effective  
12 immediately upon its passage and approval by the Governor, or  
13 its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on State Government  
..... . . . . 05-FEB-13

Read for the second time and placed  
on the calendar 1 amendment ..... . . . . 06-FEB-13

Read for the third time and passed  
as amended..... . . . . 21-FEB-13

Yeas 99, Nays 0, Abstains 0

Jeff Woodard  
Clerk