

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 172

Introduced by Gay, 14.

Read first time January 12, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the False Medicaid Claims Act; to amend
2 section 81-3119, Reissue Revised Statutes of Nebraska,
3 and sections 68-934 and 68-940, Revised Statutes
4 Cumulative Supplement, 2008; to create a fund and provide
5 for its use; to provide for disposition of fees and
6 costs; to provide for a fund transfer; to harmonize
7 provisions; to repeal the original sections; and to
8 declare an emergency.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-934, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 68-934 Sections 68-934 to 68-947 and section 3 of this
4 act shall be known and may be cited as the False Medicaid Claims
5 Act.

6 Sec. 2. Section 68-940, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 68-940 (1) In determining the amount of any penalties or
9 damages awarded under the False Medicaid Claims Act, the following
10 shall be taken into account:

11 (a) The nature of claims and the circumstances under
12 which they were presented;

13 (b) The degree of culpability and history of prior
14 offenses of the person presenting the claims;

15 (c) Coordination of the total penalties and damages
16 arising from the same claims, goods, or services, whether based on
17 state or federal statute; and

18 (d) Such other matters as justice requires.

19 (2) (a) Any person who presents a false medicaid claim is
20 subject to civil liability as provided in section 68-936, except
21 when the court finds that:

22 (i) The person committing the violation of the False
23 Medicaid Claims Act furnished officials of the state responsible
24 for investigating violations of the act with all information known
25 to such person about the violation within thirty days after the

1 date on which the defendant first obtained the information;

2 (ii) Such person fully cooperated with any state
3 investigation of such violation; and

4 (iii) At the time such person furnished the state with
5 the information about the violation, no criminal prosecution, civil
6 action, or administrative action had commenced under the act with
7 respect to such violation and the person did not have actual
8 knowledge of the existence of an investigation into such violation.

9 (b) The court may assess not more than two times the
10 amount of the false medicaid claims submitted because of the action
11 of a person coming within the exception under subdivision (2)(a)
12 of this section, and such person is also liable for the state's
13 costs and attorney's fees for a civil action brought to recover any
14 penalty or damages.

15 (3) Amounts recovered under the False Medicaid Claims Act
16 shall be remitted to the State Treasurer for credit to the Health
17 and Human Services Cash Fund, except that (a) amounts recovered
18 for the state's costs and attorney's fees pursuant to subdivision
19 (2)(b) of this section and sections 68-936 and 68-939 shall be
20 remitted to the State Treasurer for credit to the State Medicaid
21 Fraud Control Unit Cash Fund and (b) the State Treasurer shall
22 distribute civil penalties in accordance with Article VII, section
23 5, of the Constitution of Nebraska.

24 Sec. 3. The State Medicaid Fraud Control Unit Cash Fund
25 is created. The fund shall be maintained by the Department of

1 Justice and administered by the Attorney General. The fund shall
2 consist of all recoveries received pursuant to the False Medicaid
3 Claims Act, including any money, funds, securities, or other things
4 of value in the nature of civil damages or other payment, except
5 criminal penalties, whether such recovery is by way of verdict,
6 judgment, compromise, or settlement in or out of court, or other
7 final disposition of any case or controversy, or any other payments
8 received on behalf of the state by the Department of Justice and
9 administered by the Attorney General. Money in the fund shall be
10 used to pay the salaries and related expenses of the Department of
11 Justice for the state medicaid fraud control unit. Any money in
12 the fund available for investment shall be invested by the state
13 investment officer pursuant to the Nebraska Capital Expansion Act
14 and the Nebraska State Funds Investment Act.

15 Sec. 4. Section 81-3119, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-3119 The Health and Human Services Cash Fund is
18 created and shall consist of funds from contracts, grants, gifts,
19 or fees. On or before July 15, 2008, one million dollars shall
20 be transferred from the Health and Human Services Cash Fund to
21 the Rural Health Professional Incentive Fund. On July 9, 2009,
22 two hundred fifteen thousand dollars shall be transferred from the
23 Health and Human Services Cash Fund to the State Medicaid Fraud
24 Control Unit Cash Fund. Any money in the Health and Human Services
25 Cash Fund available for investment shall be invested by the state

1 investment officer pursuant to the Nebraska Capital Expansion Act
2 and the Nebraska State Funds Investment Act.

3 Sec. 5. Original section 81-3119, Reissue Revised
4 Statutes of Nebraska, and sections 68-934 and 68-940, Revised
5 Statutes Cumulative Supplement, 2008, are repealed.

6 Sec. 6. Since an emergency exists, this act takes effect
7 when passed and approved according to law.