

E AND R AMENDMENTS TO LB 277

Introduced by Murante, 49, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 68-935, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 68-935 For purposes of the False Medicaid Claims Act:

6 (1) Attorney General means the Attorney General, the
7 office of the Attorney General, or a designee of the Attorney
8 General;

9 ~~(2) Claim means any request or demand, whether under
10 a contract or otherwise, for money or property that is made to
11 a contractor, grantee, provider, or other recipient if the state
12 provides any portion of the money or property that is requested
13 or demanded or if the government will reimburse the contractor,
14 grantee, or other recipient for any portion of the money or
15 property that is requested or demanded, whether or not the state
16 pays any portion of such request or demand;~~

17 (2) Claim means any request or demand, whether under a
18 contract or otherwise, for money or property, and whether or not
19 the state has title to the money or property, that:

20 (a) Is presented to an officer, employee, or agent of the
21 state; or

22 (b) Is made to a contractor, grantee, or other recipient,
23 if the money or property is to be spent or used on the state's

1 behalf or to advance a state program or interest, and if the state:

2 (i) Provides or has provided any portion of the money or
3 property requested or demanded; or

4 (ii) Will reimburse such contractor, grantee, or other
5 recipient for any portion of the money or property which is
6 requested or demanded;

7 (3) Good or service includes (a) any particular item,
8 device, medical supply, or service claimed to have been provided
9 to a recipient and listed in an itemized claim for payment and (b)
10 any entry in the cost report, books of account, or other documents
11 supporting such good or service;

12 ~~(4)~~ (4) (a) Knowing ~~or~~ and knowingly means that a person,
13 with respect to information:

14 ~~(a)~~ (i) Has actual knowledge of such the information;

15 ~~(b)~~ (ii) Acts in deliberate ignorance of the truth or
16 falsity of such the information; or

17 ~~(c)~~ (iii) Acts in reckless disregard of the truth or
18 falsity of such the information.

19 (b) Acts committed in a knowing manner or committed
20 knowingly shall not require proof of a specific intent to defraud;

21 (5) Material means having a natural tendency to influence
22 or be capable of influencing the payment or receipt of money or
23 property;

24 (6) Obligation means an established duty, whether or
25 not fixed, arising from (a) an express or implied contractual,
26 grantor-grantee, or licensor-licensee relationship, (b) a fee-based
27 or similar relationship, (c) statute or rule or regulation, or (d)

1 the retention of any overpayment;

2 ~~(5)~~ (7) Person means any body politic or corporate,
3 society, community, the public generally, individual, partnership,
4 limited liability company, joint-stock company, or association; and

5 ~~(6)~~ (8) Recipient means an individual who is eligible to
6 receive goods or services for which payment may be made under the
7 medical assistance program.

8 Sec. 2. Section 68-936, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 68-936 (1) A person presents a false medicaid claim and
11 is subject to civil liability if such person:

12 (a) Knowingly presents, or causes to be presented, ~~to an~~
13 ~~officer or employee of the state,~~ a false or fraudulent claim for
14 payment or approval;

15 (b) Knowingly makes, ~~or~~ uses, or causes to be made or
16 used, a false record or statement material to obtain payment ~~or~~
17 approval by the state of a false or fraudulent claim;

18 (c) Conspires to defraud the state by obtaining payment
19 ~~or approval by the state of a false or fraudulent claim,~~ commit a
20 violation of the False Medicaid Claims Act;

21 (d) Has possession, custody, or control of property or
22 money used, or ~~that will~~ to be used, by the state and, ~~intending~~
23 ~~to defraud the state or willfully conceal the property,~~ delivers,
24 ~~or causes to be delivered,~~ less property than the amount for which
25 such person receives a certificate or receipt, knowingly delivers,
26 or causes to be delivered, less than all of the money or property;

27 (e) Is authorized to make or deliver a document

1 certifying receipt of property used, or to be used, by the state
2 and, intending to defraud the state, makes or delivers the receipt
3 knowing that the information on the receipt is not true;

4 (f) Knowingly buys, ~~(e) Buys,~~ or receives as a pledge of
5 an obligation or debt, public property from any officer or employee
6 of the state knowing that such officer or employee who may not
7 lawfully sell or pledge such property; or

8 ~~(f)~~ (g) Knowingly makes, uses, or causes to be made or
9 used, a false record or statement with the intent to conceal,
10 avoid, or decrease an obligation to pay or transmit money or
11 property to the state. material to an obligation to pay or transmit
12 money or property to the state or knowingly conceals, avoids, or
13 decreases an obligation to pay or transmit money or property to the
14 state.

15 (2) A person who presents a false medicaid claim under
16 subsection ~~(1)~~ of this section commits a violation of the False
17 Medicaid Claims Act is subject to, in addition to any other
18 remedies that may be prescribed by law, a civil penalty of not more
19 than ten thousand dollars. In addition to any civil penalty, a any
20 such person who presents a false medicaid claim under subsection
21 ~~(1)~~ of this section may be subject to damages in the amount of
22 three times the amount of the false claim ~~submitted to the state~~
23 ~~due to the act of such person.~~ because of the act of that person.

24 (3) If the state is the prevailing party in an action
25 under the False Medicaid Claims Act, the defendant, in addition to
26 penalties and damages, shall pay the state's costs and attorney's
27 fees for the civil action brought to recover penalties or damages

1 under the act.

2 (4) Liability under this section is joint and several for
3 any act committed by two or more persons.

4 Sec. 3. Original sections 68-935 and 68-936, Reissue
5 Revised Statutes of Nebraska, are repealed.

6 2. On page 1, strike lines 2 through 6 and insert
7 "sections 68-935 and 68-936, Reissue Revised Statutes of Nebraska;
8 to define and redefine terms; to change provisions relating to
9 presentation of a false medicaid claim; and to repeal the original
10 sections."