

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/17/15

A Bill

HOUSE BILL 1936

By: Representative Bell

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING THE REPORTING
OF WASTE OR MISUSE OF PUBLIC FUNDS BY ARKANSAS
MEDICAID PROVIDERS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND ARKANSAS LAW CONCERNING THE
REPORTING OF WASTE OR MISUSE OF PUBLIC
FUNDS BY ARKANSAS MEDICAID PROVIDERS

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 77, Subchapter 25, is amended to add an additional section to read as follows:

20-77-2514. Reward to employee of Medicaid provider when communication of abuse, fraud, or waste results in savings of funds.

(a) As used in this section:

(1) "Adverse action" means to discharge, threaten, or otherwise discriminate or retaliate against an employee in any manner that affects the employee's employment, including compensation, job location, rights, immunities, promotions, or privileges; and

(2) "Medicaid provider" means a person, corporation, or other entity that provides is directly reimbursed by Medicaid for services in the Arkansas Medicaid Program.

(b) An employee of a Medicaid provider communicating abuse, fraud, or waste by the Medicaid provider employing the employee to the Office of Medicaid Inspector General shall be eligible to receive a reward in an amount equal to ten percent (10%) of any savings in Medicaid funds attributable to



the communication as calculated under this section.

(c) Except as provided in subsection (g) of this section, upon the resolution of a matter communicated to the Office of Medicaid Inspector General under this section, the Office of Medicaid Inspector General shall provide a written report detailing the content of the communication and the outcome of the communication to the:

(1) Employee who made the communication; and

(2) Medicaid provider that was the subject of the communication.

(d) After receiving a written report under subsection (c) of this section, the Office of Medicaid Inspector General shall:

(1) Document the savings in Medicaid funds attributable to the communication made under this section for one (1) full fiscal year, including without limitation recovery of funds from the Medicaid provider occurring in response to the communication; and

(2)(A) Within thirty (30) days of the end of the first full fiscal year in which the communication under this section was made, issue a report containing:

(i) The total savings in Medicaid funds resulting from the communication under this section for the first full fiscal year in which the communication was made, including without limitation recovery from the Medicaid provider occurring in response to the communication;

(ii) The name of the employee who made the communication resulting in the savings of Medicaid funds; and

(iii) The amount of the reward for which the employee is eligible. The amount of the reward shall be equal to ten percent (10%) of the total savings in Medicaid funds reported under subdivision (d)(2)(A)(i) of this section. If the Office of Medicaid Inspector General concludes that the employee is not eligible for a reward, it shall state the reasons for that determination in the report.

(B) A report under subdivision (d)(2)(A) of this section shall be submitted to the:

(i) Performance Evaluation and Expenditure Review Subcommittee of the Legislative Council or, if the General Assembly is in session, the Review/PEER Subcommittee of the Joint Budget Committee;

(ii) Employee who made the communication under this section unless the employee has elected to maintain confidentiality under

subsection (g) of this section. The report to the employee shall include a notice to the employee of the right to an appeal under subsection (e) of this section; and

(iii) Clerk of the Arkansas State Claims Commission.

(e)(1) An employee may appeal to the Arkansas State Claims Commission in the same manner for filing a claim under § 19-10-208 if the employee believes that:

(A) A report under subdivision (d)(2)(A) of this section does not accurately reflect the savings attributable to the communication under this section; or

(B) The Office of Medicaid Inspector General did not accurately assess the determination of a reward under this section, including without limitation denying a reward to the employee.

(3)(A) A written request for an appeal under subdivision (e)(1) of this section shall be filed within forty (40) days of the submission of the report under subdivision (d)(2)(A) of this section.

(B) An appeal to the commission under subdivision (e)(1) of this section shall follow the rules and procedures of the commission.

(4) In an appeal to the commission, an employee shall have the burden of proving by a preponderance of the evidence that the:

(A) Amount of savings reported by the Office of Medicaid Inspector General under subdivision (d)(2)(A) of this section does not accurately reflect the savings attributable to the communication under this section; or

(B) Office of Medicaid Inspector General did not accurately assess the determination of a reward under this section.

(5)(A) The decision of the commission in a matter appealed under this subsection may be appealed only to the Claims Review Subcommittee of the Legislative Council or, if the General Assembly is in session, the Claims Subcommittee of the Joint Budget Committee.

(B)(i) Notice of appeal under subdivision (e)(5)(A) of this section shall be filed with the commission within forty (40) days after the commission renders a decision.

(ii) The commission, in a timely manner, shall notify the Legislative Council or the Joint Budget Committee and all parties to the matter when a notice of appeal to the Claims Review Subcommittee of

the Legislative Council or Claims Subcommittee of the Joint Budget Committee is filed with the commission.

(iii) When the commission notifies parties of a decision of the commission, it shall advise the parties of the right of appeal.

(f)(1)(A) Except as provided in subdivision (f)(2) of this section, within thirty (30) days of the end of the period for appeal under subdivision (e)(3)(A) of this section or the resolution of an appeal under subsection (e) of this section, whichever is later, the clerk of the commission shall notify the Office of Medicaid Inspector General of a reward to be paid to an employee making a communication under this section.

(B) Upon receipt of notification under subdivision (f)(1) of this section, the Office of Medicaid Inspector General shall deliver a check to the clerk of the commission who shall deposit the same as a nonrevenue receipt into the Miscellaneous Revolving Fund from which he or she shall disburse the amount of the reward to the state employee.

(2)(A) No reward under this section shall be paid in excess of twelve thousand five hundred dollars (\$12,500).

(B) If the amount of a reward is greater than twelve thousand five hundred dollars (\$12,500), the reward shall be referred to the General Assembly for an appropriation to the Office of Medicaid Inspector General.

(C) If a reward is appropriated to the Office of Medicaid Inspector General for the benefit of an employee, it shall be paid from the funds available to the Office of Medicaid Inspector General.

(g)(1) An employee of a Medicaid provider wishing to maintain confidentiality or who otherwise chooses to forego a reward under this section shall request to the Office of Medicaid Inspector General that the report under subsection (c) of this section not include the employee's name or identifying information.

(2) A state employee making a request under subdivision (g)(1) of this section shall not receive a reward under this section.

(3) The name and identifying information of an employee who requests confidentiality under subdivision (g)(1) of this section is not disclosable under applicable state or federal law.

(h)(1) Except as provided in subdivision (h)(2) of this section, a

reward under this section shall not be payable for a communication made by an employee of a Medicaid provider in the normal course of the employee's job duties.

(2) If a communication in the normal course of an employee's job duties detailing abuse, fraud, or waste is not acted upon by the Medicaid provider within ninety (90) days, the employee may make a communication under this section to the Office of Medicaid Inspector General and be eligible for a reward under this section.

(i) A Medicaid provider shall not take adverse action against an employee because:

(1) The employee or a person authorized to act on behalf of the employee communicated abuse, fraud, or waste in good faith to the Office of Medicaid Inspector General in the manner provided by this section; or

(2) The employee pursues an appeal under subdivision (e)(1) of this section.

/s/Bell