

By the Committee on Judiciary; and Senator Saunders

308-2010-02

1                                   A bill to be entitled  
2           An act relating to Medicaid fraud; amending s.  
3           409.920, F.S.; clarifying duties of the  
4           Attorney General with respect to the statewide  
5           program to control Medicaid fraud; authorizing  
6           the Attorney General to seek civil remedies  
7           under the Florida False Claims Act and other  
8           laws; authorizing the Attorney General to refer  
9           certain cases of overpayment and suspected  
10          abusive activities to the Agency for Health  
11          Care Administration; providing an effective  
12          date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16           Section 1. Subsections (7) and (8) of section 409.920,  
17 Florida Statutes, are amended to read:

18           409.920 Medicaid provider fraud.--

19           (7) The Attorney General shall conduct a statewide  
20 program of Medicaid fraud control. To accomplish this purpose,  
21 the Attorney General shall:

22           (a) Investigate the possible criminal violation of any  
23 applicable state law pertaining to fraud in the administration  
24 of the Medicaid program, in the provision of medical  
25 assistance, or in the activities of providers of health care  
26 under the Medicaid program.

27           (b) Investigate the alleged abuse or neglect of  
28 patients in health care facilities receiving payments under  
29 the Medicaid program, in coordination with the agency.

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1 (c) Investigate the alleged misappropriation of  
2 patients' private funds in health care facilities receiving  
3 payments under the Medicaid program.

4 (d) Refer to the Office of Statewide Prosecution or  
5 the appropriate state attorney all violations indicating a  
6 substantial potential for criminal prosecution.

7 (e) Refer to the agency all suspected abusive  
8 activities not of a criminal or fraudulent nature.

9 ~~(f) Refer to the agency for collection each instance~~  
10 ~~of overpayment to a provider of health care under the Medicaid~~  
11 ~~program which is discovered during the course of an~~  
12 ~~investigation.~~

13 (f)(g) Safeguard the privacy rights of all individuals  
14 and provide safeguards to prevent the use of patient medical  
15 records for any reason beyond the scope of a specific  
16 investigation for fraud or abuse, or both, without the  
17 patient's written consent.

18 (8) In carrying out the duties and responsibilities  
19 under this section ~~subsection~~, the Attorney General may:

20 (a) Enter upon the premises of any health care  
21 provider, excluding a physician, participating in the Medicaid  
22 program to examine all accounts and records that may, in any  
23 manner, be relevant in determining the existence of fraud in  
24 the Medicaid program, to investigate alleged abuse or neglect  
25 of patients, or to investigate alleged misappropriation of  
26 patients' private funds. A participating physician is required  
27 to make available any accounts or records that may, in any  
28 manner, be relevant in determining the existence of fraud in  
29 the Medicaid program. The accounts or records of a  
30 non-Medicaid patient may not be reviewed by, or turned over  
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1 to, the Attorney General without the patient's written  
2 consent.

3 (b) Subpoena witnesses or materials, including medical  
4 records relating to Medicaid recipients, within or outside the  
5 state and, through any duly designated employee, administer  
6 oaths and affirmations and collect evidence for possible use  
7 in either civil or criminal judicial proceedings.

8 (c) Request and receive the assistance of any state  
9 attorney or law enforcement agency in the investigation and  
10 prosecution of any violation of this section.

11 (d) Seek any civil remedy provided by law, including,  
12 but not limited to, the remedies provided under ss.  
13 68.081-68.092, s. 812.035, and this chapter.

14 (e) Refer to the agency for collection any case of  
15 overpayment to a provider of health care under the Medicaid  
16 program which is discovered during the course of an  
17 investigation.

18 (f) Refer to the agency any case of suspected abusive  
19 activities that are not of a criminal nature.

20 Section 2. This act shall take effect upon becoming a  
21 law.

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23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
24 COMMITTEE SUBSTITUTE FOR  
25 Senate Bill 1632

26 Reinstates the existing language in paragraph (e) of s.  
27 409.920(7), F.S., which provides that the Attorney General, in  
28 conducting the Medicaid Fraud Control program, shall refer to  
29 the Agency for Health Care Administration all suspected  
30 abusive activities not of a criminal nature. Also, new  
31 language is inserted in paragraph (e) that directs the  
Attorney General to refer to the Agency for Health Care  
Administration all suspected activities that are not of a  
fraudulent nature.