

HOUSE BILL REPORT

SB 6156

As Reported by House Committee On:
Judiciary

Title: An act relating to the medicaid fraud false claims act.

Brief Description: Reauthorizing the medicaid fraud false claims act.

Sponsors: Senators Rivers, Keiser, Frockt, Miloscia, Pedersen, Litzow, O'Ban, Sheldon, Rolfes, Conway, Mullet, Hasegawa and Benton; by request of Attorney General.

Brief History:

Committee Activity:

Judiciary: 2/24/16, 2/26/16 [DP].

Brief Summary of Bill

- Limits the sunset review and termination of the Medicaid Fraud False Claims Act (MFFCA) to the qui tam provisions of the MFFCA, and extends the sunset review and termination of the qui tam provisions to 2023.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Kuderer, Muri, Orwall and Stokesbary.

Staff: Edie Adams (786-7180).

Background:

Legislation enacted in 2012 established the Medicaid Fraud False Claims Act (MFFCA). The MFFCA establishes civil liability for a number of false or fraudulent activities involving claims for payment to the state Medicaid program. Civil liability for presenting a false or fraudulent claim includes a civil penalty between \$5,500 and \$11,000 plus three times the amount of damages incurred by the state.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The MFFCA also authorizes qui tam actions that allow private parties, called qui tam relators (relators), to bring a civil action in the name of the state for violations of the MFFCA. Prior to commencing the action, the relator must serve the Attorney General with a copy of the complaint and all material evidence regarding the claim, and the Attorney General has at least 60 days following the receipt of the complaint to decide whether or not to intervene in the action. If the Attorney General intervenes in the action, the relator continues as a party but his or her participation may be limited. If the Attorney General does not intervene in the suit, the relator may proceed with the case. A relator is entitled to share in the proceeds of any settlements or judgments.

The Attorney General's Medicaid Fraud Control Unit civil section (Civil Section) is responsible for investigating and pursuing actions relating to Medicaid fraud under the MFFCA. The Civil Section is funded through a federal matching grant. The state provides 25 percent of the funding, which comes from Medicaid fraud recoveries deposited in the Medicaid Fraud Penalty Account. The federal government provides a grant funding the remaining 75 percent of the Civil Section.

The MFFCA is scheduled to terminate on June 30, 2016, under the Washington Sunset Act. The Joint Legislative Audit and Review Committee (JLARC) conducted a sunset review of the program and issued its report and recommendations in December 2015. The JLARC recommends that the Legislature reauthorize the MFFCA because it allows the state to pursue civil cases against Medicaid fraud that it would lack authority to pursue otherwise, and Medicaid fraud recoveries have increased since enactment of the MFFCA.

Summary of Bill:

The sunset review and termination of the MFFCA are limited to the qui tam provisions of the MFFCA and extended to June 30, 2023.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) When the MFFCA was originally enacted four years ago, there were concerns over how it would be implemented. Those concerns have not come to fruition. The bill was well-worked over the interim and all stakeholders are in agreement. The bill passed unanimously in the Senate. The MFFCA is an important tool for the state. It promotes deterrence, recovers money to the state, and improves the integrity of the Medicaid system. The JLARC was unanimous in its recommendation that the MFFCA should be

reauthorized. Two key findings in their report are that for every dollar invested, the state recovers \$3, and since the time of enactment of the MFFCA, there have been no known frivolous suits.

(Opposed) None.

Persons Testifying: Senator Rivers, prime sponsor; Mike Webb and Doug Walsh, Office of the Attorney General; and Cliff Webster, Coalition for Liability Reform.

Persons Signed In To Testify But Not Testifying: None.