

HOUSE BILL REPORT

SSB 6051

As Passed House - Amended:

February 27, 2018

Title: An act relating to the medicaid fraud control unit.

Brief Description: Concerning the medicaid fraud control unit.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Dhingra, Keiser, Walsh, Frockt, Saldaña, Darneille, Pedersen, Conway, Kuderer and Mullet; by request of Attorney General).

Brief History:

Committee Activity:

Judiciary: 2/14/18, 2/21/18 [DPA].

Floor Activity:

Passed House - Amended: 2/27/18, 96-2.

Brief Summary of Substitute Bill (As Amended by House)

- Requires the Attorney General to establish and maintain a Medicaid Fraud Control Unit (MFCU) and specifies the authority and duties of the MFCU.
- Provides that the Department of Social and Health Services and law enforcement agencies may share reports of suspected abandonment, abuse, financial exploitation, or neglect of a vulnerable adult with the MFCU.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Klippert, Muri, Orwall and Valdez.

Staff: Edie Adams (786-7180).

Background:

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.

State law establishes a number of civil and criminal penalties for fraudulent acts related to the Medicaid program. Medicaid service providers that obtain payments through willful false statements, willful misrepresentation or concealment of material facts, or other fraudulent schemes must repay any excess payments received and may be assessed civil penalties up to three times the amount of the excess payments. In addition, the Medicaid Fraud False Claims Act establishes civil liability for a number of false or fraudulent activities involving claims for payment to the state Medicaid program.

Criminal provisions relating to Medicaid fraud make it a class C felony for any person to knowingly make a false statement or conceal material facts in an application for payment, knowingly make a false statement regarding facts used to determine rights to payments, or have knowledge of the concealment of information with the intent to fraudulently receive unauthorized payments. Other criminal prohibitions applicable to Medicaid fraud include prohibitions relating to inappropriate rebating and referral practices and knowingly charging excessive rates for services to patients.

The Medicaid Fraud Control Unit (MFCU) within the Office of the Attorney General is responsible for both civil and criminal investigation and prosecution of health care provider fraud committed against the state's Medicaid program. In addition, the MFCU monitors complaints of resident abuse or neglect in Medicaid-funded nursing homes, adult family homes, and boarding homes. The MFCU 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 MFCU.

Under federal law, all states must operate MFCUs that effectively carry out the requirements of federal law with regard to the investigation and prosecution of Medicaid provider fraud and patient abuse and neglect, unless the Secretary of Health and Human Services determines the state can operate without a MFCU. The Office of the Inspector General is responsible for certifying state MFCUs as meeting federal requirements and eligibility for federal grants. In order to receive federal grants, a state MFCU must meet a number of requirements under the Social Security Act and federal regulations. These include requirements that the MFCU have either statewide authority to prosecute criminal cases or procedures for referring suspected criminal violations to an agency with such authority.

Summary of Amended Bill:

The Attorney General must establish and maintain a Medicaid Fraud Control Unit (MFCU) within the Office of the Attorney General.

The MFCU has the authority and criminal jurisdiction to investigate and prosecute Medicaid provider fraud, as well as other health care program fraud and abuse and neglect matters where authority is granted by the federal government. The MFCU must cooperate with federal and local investigators and prosecutors and coordinate local, state, and federal investigations and prosecutions involving such fraud.

The Attorney General must employ and train personnel to achieve the purposes of the act, including attorneys, investigators, auditors, clerical support, and other necessary personnel.

Medicaid fraud control investigators appointed by the Attorney General are authorized to detect, investigate, and apprehend when it appears a criminal violation relating Medicaid fraud, Medicaid managed care fraud, Medicare fraud, or abuse or neglect has been or is about to be committed.

The MFCU must protect patient privacy and establish procedures to ensure confidentiality of records in accordance with state and federal laws, including the federal Health Insurance Portability and Accountability Act and the Washington Uniform Health Care Information Act.

The Department of Social and Health Services and law enforcement agencies that receive reports of suspected abandonment, abuse, financial exploitation, or neglect of a vulnerable adult from mandatory reporters may share the reports in a timely manner with the MFCU.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The Medicaid Fraud Control Unit (MFCU) fights waste and theft in the state's Medicaid program to protect our most vulnerable citizens. The bill provides the MFCU with critical law enforcement powers to enable it to fulfill its federally-mandated mission and save the state money. Washington is the only state that has not passed an enabling statute with these enforcement powers. With these powers the MFCU can go after more serious types of cases and bring in more money to the state without having to burden local law enforcement agencies.

(Opposed) None.

Persons Testifying: Senator Dhingra, prime sponsor; and Larissa Payne, Office of the Attorney General.

Persons Signed In To Testify But Not Testifying: None.