

SENATE BILL REPORT

SSB 6051

As Amended by House, 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: Law & Justice: 1/16/18, 1/25/18 [DPS].

Floor Activity:

Passed Senate: 2/07/18, 48-0.

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

Brief Summary of First Substitute Bill

- Creates a new chapter in the Medicaid statute, authorizing the Medicaid Fraud Control Unit (MFCU) to investigate and prosecute Medicaid provider fraud.
- Authorizes the MFCU to cooperate and coordinate in local, state, and federal investigations and prosecutions as provided in federal laws.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6051 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Angel, Assistant Ranking Member; Darneille, Frockt and Wilson.

Staff: Melissa Burke-Cain (786-7755)

Background: Medicaid. Medicaid is health insurance for eligible low-income persons including children, the elderly, and persons with a disability. Each state designs and administers its own Medicaid program. The federal government jointly funds the state's Medicaid program as long as the program complies with the requirements mandated by the

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.

Centers for Medicaid and Medicare Services (CMS). Medicaid funding and services are administered jointly by the Washington State Health Care Authority and Department of Social and Health Services, except for the nursing home program, which is administered by the Aging and Long-Term Support Administration.

Medicaid covered services include hospital care, skilled nursing home care, residential adult family care services, and professional services provided by physicians, and laboratories. Washington Medicaid also includes hospice, mental health, dental services and eyeglasses. Medicaid services and supplies are provided by a broad range of providers including drug manufacturers, doctors, nurses, clinics, hospitals, nursing homes, adult family homes, assisted living facilities, medical laboratories, ambulance and transportation companies, home health, and medical equipment providers.

Medicaid Fraud. Program contractors, medical providers, or program recipients may defraud the Medicaid program. Medicaid fraud unit programs focus exclusively on Medicaid contractor and provider fraud; not fraud committed by individual Medicaid recipients. The Office of the Inspector General at the federal Department of Health and Human Services (HHS) oversees the Medicaid fraud units.

Providers and contractors commit fraud by billing the Medicaid program, knowingly or intentionally, for:

- services not provided;
- phantom visits;
- false cost reports;
- kickbacks; or
- unnecessary, low quality, or more expensive services and supplies.

Perpetrators range from solo practitioners and small businesses to large institutions and multinational corporations.

Washington State's Medicaid Fraud Control Unit (MFCU). The MFCU is part of the Attorney General's Office and is comprised of attorneys, investigators, auditors, and other staff. The unit is responsible for both criminal and civil investigation and prosecution of health care provider fraud committed against the state's Medicaid program. The unit also monitors complaints of resident abuse or neglect in Medicaid funded nursing homes, adult family homes and boarding homes providing assistance to local law enforcement in investigating and prosecuting crimes committed against vulnerable adults.

Current Law. In 2012, Washington enacted its Medicaid Fraud False Claims Act. The Act significantly expanded the MFCU's authority by granting the unit the ability to prosecute fraud using the civil justice system.

Summary of First Substitute Bill: The Attorney General's Office operates the Medicaid Fraud Control Unit (MFCU) with jurisdiction to detect, deter, and prosecute fraud, abuse, and neglect in Washington's Medicaid system. The MFCU's work is necessary to satisfy federal Medicaid program integrity standards required for Washington's receipt of federal Medicaid funding. The attorney general must employ and train MFCU personnel and cooperate with federal and local investigations and prosecutions of provider fraud, abuse, and neglect

matters as provided in federal law. The MFCU shall protect patient privacy and records confidentiality as required by state and federal laws. MFCU investigators may detect, investigate, and apprehend perpetrators when a criminal law violation has occurred or is about to occur related to Medicaid fraud, Medicaid managed care fraud, abuse, and neglect as provided in the federal Medicaid laws.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill is essential because the Office of the Inspector General for Health and Human Services is requiring Washington to have its Medicaid Fraud Control Unit enabling legislation all in one location in statute. Currently, Washington is the only state MFCU that lacks authority to prosecute abuse and neglect of vulnerable patients. The MFCU must rely on local law enforcement to prosecute Medicaid providers who abuse or neglect their patients or who are dangerous to their Medicaid clients. The MFCU's ability to prosecute hinders these important client protection responsibilities. The MFCU is a revenue generating unit. The funds it recovers are significant and support both the prescription drug monitoring program and returns money to the Medicaid program.

Persons Testifying: PRO: Senator Manka Dhingra, Prime Sponsor; Larissa Payne, Washington Attorney General.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Authorizes timely sharing of reports between the Department of Social and Health Services, law enforcement agencies, and the Medicaid Fraud Control Unit concerning suspected abandonment, abuse, financial exploitation, or neglect of vulnerable adults.