

SENATE BILL REPORT

SB 5163

As Reported by Senate Committee On:
Law & Justice, February 2, 2023

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

Brief Description: Removing the sunset provisions on the medicaid fraud false claims act.

Sponsors: Senators Rivers, Dhingra, Hasegawa, Keiser, Kuderer, Mullet and Muzzall; by request of Attorney General.

Brief History:

Committee Activity: Law & Justice: 1/26/23, 2/02/23 [DP-WM, w/oRec].

Brief Summary of Bill

- Repeals provisions of law that would repeal the qui tam provisions of the Medicaid Fraud False Claims Act on June 30, 2023.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senator Wilson, L..

Staff: Kevin Black (786-7747)

Background: Medicaid Fraud. Medicaid is a joint federal-state program that pays providers who deliver health care to eligible populations. Medicaid fraud is a type of fraud in which health care providers knowingly submit false claims for payment. Medicaid fraud increases costs for the state and federal government, and may result in patient harm.

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

The Medicaid Fraud False Claims Act. The state adopted the Medicaid Fraud False Claims Act (Act) in 2012. The Act allows the state Attorney General's Office (AGO) and private citizens to file complaints against Medicaid providers who are suspected of fraudulent activities. Prior to the Act, the AGO could only pursue criminal cases. The original Act was set to expire on June 30, 2016. The 2016 Legislature made certain portions of the Act permanent and extended the expiration date of the Act's qui tam provisions until June 30, 2023.

Qui Tam Provisions. The qui tam provisions of the Act allow private parties, called relators, to file fraud complaints in civil court against a Medicaid provider on the state's behalf. Qui tam relators often have first-hand knowledge of potential fraudulent activities, and can identify fraud that may not be detected through other means, such as referral from state agencies or criminal proceedings. The AGO must investigate all state qui tam complaints. If the AGO or court finds sufficient evidence that fraud occurred, the provider pays a financial recovery, either through a settlement with the AGO or a court order. The recovery is shared by the state and relator. Forty-three states have false claims acts, with 29 of these including qui tam provisions.

Joint Legislative Audit Review Committee Sunset Review. In 2022, the Joint Legislative Audit Review Committee (JLARC) completed a sunset review of the Act's qui tam provisions. JLARC found that the AGO implements the qui tam provisions consistent with legislative intent, and that the AGO recovered 18 times more than it spent, or about \$72 million, during the study period. There have been 19 qui tam actions filed under the Act since its inception in Washington. Of these 19, seven are still pending, and in one instance the relator's complaint was ruled to be frivolous. JLARC concluded that the qui tam process works as intended and recommends reauthorizing the qui tam provisions and making them permanent.

Summary of Bill: Provisions of law that would repeal the qui tam provisions of the Medicaid Fraud False Claims Act on June 30, 2023, are repealed.

Appropriation: None.

Fiscal Note: Not requested.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: When this bill was first passed, we were afraid it would be abused. Our dollars are protected under this act. False claims have been dismissed by the AGO. Shady maneuvers occur in the health care system. This act uncovers fraud that otherwise wouldn't be discovered.

Persons Testifying: PRO: Senator Ann Rivers, Prime Sponsor; Carrie Bashaw, Washington State Attorney General's Office.

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