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**SENATE BILL 213**

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

**INTRODUCED BY**

**Ben D. Altamirano**

**AN ACT**

**RELATING TO MEDICAID FRAUD; AUTHORIZING PENALTY FUNDS RECOVERED  
BY THE MEDICAID FRAUD UNIT TO BE EXPENDED BY THAT UNIT TO  
FURTHER INVESTIGATE AND PROSECUTE MEDICAID FRAUD; MAKING AN  
APPROPRIATION; DECLARING AN EMERGENCY.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 30-44-8 NMSA 1978 (being Laws 1989,  
Chapter 286, Section 8, as amended) is amended to read:**

**"30-44-8. CIVIL PENALTIES--CREATED--ENUMERATED--  
PRESUMPTION--LIMITATION OF ACTION.--**

**A. Any person who receives payment for furnishing  
treatment, services or goods under the program, which payment  
the person is not entitled to receive by reason of a violation  
of the Medicaid Fraud Act, shall, in addition to any other  
penalties or amounts provided by law, be liable for:**

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1 (1) payment of interest on the amount of the  
2 excess payments at the maximum legal rate in effect on the date  
3 the payment was made, for the period from the date payment was  
4 made to the date of repayment to the state;

5 (2) a civil penalty in an amount of up to  
6 three times the amount of excess payments;

7 (3) payment of a civil penalty of up to ten  
8 thousand dollars (\$10,000) for each false or fraudulent claim  
9 submitted or representation made for providing treatment,  
10 services or goods; and

11 (4) payment of legal fees and costs of  
12 investigation and enforcement of civil remedies.

13 B. ~~[Penalties and]~~ Interest amounts assessed under  
14 this section shall be remitted to the state treasurer for  
15 deposit in the general fund.

16 C. Any penalties, legal fees, costs of  
17 investigation and costs of enforcement of civil remedies  
18 recovered by the unit on behalf of the state shall be ~~[remitted~~  
19 ~~to the state treasurer for deposit in the general fund]~~  
20 retained by the unit and expended, consistent with federal  
21 regulations and state law, for the purpose of carrying out the  
22 unit's duties.

23 D. A criminal action need not be brought against a  
24 person as a condition precedent to enforcement of civil  
25 liability under the Medicaid Fraud Act.

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E. The remedies under this section are separate from and cumulative to any other administrative and civil remedies available under federal or state law or regulation.

F. The department may adopt regulations for the administration of the civil penalties contained in this section.

G. No action under this section shall be brought after the expiration of five years from the date the action accrues. "

Section 2. ~~EMERGENCY.~~ --It is necessary for the public peace, health and safety that this act take effect immediately.