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AN ACT

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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:

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

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

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

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

B. Interest amounts, legal fees and costs of enforcement of civil

1 remedies assessed under this section shall be remitted to the state treasurer for  
2 deposit in the general fund.

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3 C. Any penalties and costs of investigation recovered on behalf of  
4 the state shall be remitted to the state treasurer for deposit in the general fund  
5 except an amount not to exceed two hundred fifty thousand dollars (\$250,000) in  
6 fiscal year 2004, one hundred twenty-five thousand dollars (\$125,000) in fiscal year  
7 2005 and  
8 seventy-five thousand dollars (\$75,000) in fiscal year 2006 may be retained by the  
9 unit and expended, consistent with federal regulations and state law, for the  
10 purpose of carrying out the unit's duties.

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

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

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

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

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

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