

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 133

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO MEDICAID FALSE CLAIMS; AMENDING THE MEDICAID FALSE CLAIMS ACT; EXPANDING ENFORCEMENT OF THE MEDICAID FALSE CLAIMS ACT TO THE ATTORNEY GENERAL; CHANGING AND ADDING DEFINITIONS; INCREASING PENALTIES; EXPANDING LIABILITY; ALLOWING FOR RESTRICTIONS ON INDIVIDUALS INITIATING MEDICAID FALSE CLAIMS ACTIONS; PROVIDING FOR PURSUAL OF CLAIMS THROUGH ALTERNATE REMEDIES; CHANGING STANDARDS FOR ALLOWING A DEFENDANT TO OBTAIN ATTORNEY FEES AND COSTS; EXPANDING WHISTLEBLOWER PROTECTION TO INCLUDE AGENTS AND CONTRACTORS; SETTING TIME FRAMES FOR BRINGING AN ACTION.

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

SECTION 1. Section 27-14-3 NMSA 1978 (being Laws 2004, Chapter 49, Section 3) is amended to read:

"27-14-3. DEFINITIONS.--As used in the Medicaid False .192110.3

underscoring material = new
~~[bracketed material] = delete~~

1 Claims Act:

2 A. "claim" means a ~~[written or electronically~~
3 ~~submitted request for payment of health care services pursuant~~
4 ~~to the medicaid program]~~ request or demand, whether under a
5 contract or otherwise, for money or property, regardless of
6 whether the federal or state government has title to the money
7 or property, that is:

8 (1) presented to an officer, employee or agent
9 of the federal or state government; or

10 (2) made to a contractor, grantee or other
11 recipient if the money or property is to be spent or used on
12 behalf of the federal or state government under the medicaid
13 program or to advance a federal or state government program or
14 interest within the medicaid program and if the federal or
15 state government:

16 (a) provides or has provided a portion
17 of the money or property requested or demanded; or

18 (b) will reimburse the contractor,
19 grantee or other recipient for a portion of the money or
20 property that is requested or demanded;

21 B. "department" means the human services
22 department;

23 C. "knowing" or "knowingly" means that a person,
24 with respect to information and regardless of whether that
25 person has a specific intent to defraud, has actual knowledge

1 of the information, acts in deliberate ignorance of the truth
 2 or falsity of the information or acts in reckless disregard of
 3 the truth or falsity of the information;

4 D. "material" means having a natural tendency to
 5 influence, or be capable of influencing, the payment or receipt
 6 of money or property;

7 [~~G.~~] E. "medicaid" means the federal-state program
 8 administered by the human services department pursuant to Title
 9 19 or Title 21 of the federal Social Security Act;

10 [~~D.~~] F. "medicaid recipient" means an individual on
 11 whose behalf a person claims or receives a payment from the
 12 medicaid program, regardless of whether the individual was
 13 eligible for the medicaid program; [and]

14 G. "obligation" means an established duty, whether
 15 or not fixed, arising from an express or implied contractual,
 16 grantor-grantee or licensor-licensee relationship, from a
 17 fee-based or similar relationship, from statute or regulation
 18 or from the retention of any overpayment; and

19 [~~E.~~] H. "qui tam" means an action brought under a
 20 statute that allows a private person to sue for a recovery,
 21 part of which the state will receive."

22 **SECTION 2.** Section 27-14-4 NMSA 1978 (being Laws 2004,
 23 Chapter 49, Section 4) is amended to read:

24 "27-14-4. FALSE CLAIMS AGAINST THE STATE--LIABILITY FOR
 25 CERTAIN ACTS.--A person commits an unlawful act and shall be

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1 liable to the state for a civil penalty of not less than five
2 thousand dollars (\$5,000) and not more than ten thousand
3 dollars (\$10,000) as provided by 31 U.S.C. Section 3729(a) plus
4 three times the amount of damages that the state sustains [~~as a~~
5 ~~result~~] because of the act [if the] of that person when that
6 person:

7 A. knowingly presents, or causes to be presented,
8 ~~[to the state]~~ a false or fraudulent claim for payment under
9 the medicaid program [~~knowing that such claim is false or~~
10 ~~fraudulent~~];

11 B. knowingly presents, or causes to be presented,
12 to the state a claim for payment under the medicaid program
13 ~~[knowing]~~ that the person receiving a medicaid benefit or
14 payment is not authorized or is not eligible for [~~a benefit~~]
15 under the medicaid program;

16 C. knowingly makes, uses or causes to be made or
17 used a false, misleading or fraudulent record or statement [~~to~~
18 ~~obtain~~] that is material in the obtaining of, or in supporting
19 the approval of, payment on a false or fraudulent claim under
20 the medicaid program; [~~paid for or approved by the state~~
21 ~~knowing such record or statement is false;~~

22 ~~D. conspires to defraud the state by getting a~~
23 ~~claim allowed or paid under the medicaid program knowing that~~
24 ~~such claim is false or fraudulent;~~

25 E.] D. knowingly makes, uses or causes to be made

1 or used a false record or statement material to an obligation
 2 to ~~[conceal, avoid or decrease]~~ pay or transmit money or
 3 property to the state, or knowingly conceals or knowingly and
 4 improperly avoids or decreases an obligation to pay or transmit
 5 money or property to the state, relative to the medicaid
 6 program; ~~[knowing that such record or statement is false;~~

7 ~~F.]~~ E. knowingly applies for and receives a benefit
 8 or payment on behalf of another person, except pursuant to a
 9 lawful assignment of benefits, under the medicaid program and
 10 converts that benefit or payment to ~~[his]~~ the person's own
 11 ~~[personal]~~ use;

12 ~~[G.]~~ F. knowingly makes a false statement or
 13 misrepresentation of material fact concerning the conditions or
 14 operation of a health care facility in order that the facility
 15 may qualify for certification or recertification required by
 16 the medicaid program; ~~[or~~

17 ~~H.]~~ G. knowingly makes a claim under the medicaid
 18 program for a service or product that was not provided;

19 H. has possession, custody or control of property
 20 or money used, or to be used, by the state or federal
 21 government under the medicaid program and knowingly delivers,
 22 or causes to be delivered, less than all of that money or
 23 property; or

24 I. conspires to commit a violation of this
 25 section."

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1 SECTION 3. Section 27-14-5 NMSA 1978 (being Laws 2004,
2 Chapter 49, Section 5) is amended to read:

3 "27-14-5. DOCUMENTARY MATERIAL IN POSSESSION OF STATE
4 AGENCY.--

5 A. The department and the attorney general shall
6 have access to all documentary materials of persons and
7 medicaid recipients to which a state agency has access.
8 Documentary material provided pursuant to this subsection is
9 provided to allow investigation of an alleged unlawful act or
10 for use or potential use in an administrative or judicial
11 proceeding.

12 B. Except for disclosure to any person under
13 investigation or who is the subject of allegations made
14 pursuant to the Medicaid False ~~[Claim]~~ Claims Act or as ordered
15 by a court for good cause shown, the department or the attorney
16 general shall not produce for inspection or copying or
17 otherwise disclose the contents of documentary material
18 obtained pursuant to this section to a person other than:

19 (1) an authorized employee of the attorney
20 general;

21 (2) an agency of this state, the United States
22 or another state;

23 (3) a district attorney, city attorney or
24 county attorney of this state;

25 (4) the United States attorney general; or

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1 (5) a state or federal grand jury."

2 SECTION 4. Section 27-14-7 NMSA 1978 (being Laws 2004,
3 Chapter 49, Section 7) is amended to read:

4 "27-14-7. CIVIL ACTION FOR FALSE CLAIMS.--

5 A. The department or the attorney general shall
6 diligently investigate suspected violations. If the department
7 or the attorney general finds that a person has violated or is
8 violating the provisions of the Medicaid False Claims Act, the
9 ~~[department]~~ state may bring a civil action pursuant to
10 ~~[Subsection F of]~~ this section.

11 B. A person may bring a private civil action ~~[may~~
12 ~~be brought by an affected person]~~ for a violation of the
13 Medicaid False Claims Act on behalf of the person bringing suit
14 and for the state. The action shall be brought in the name of
15 the state. The action may be dismissed only if the court and
16 the ~~[department, pursuant to Subsection F of this section]~~
17 attorney general give written consent to the dismissal and
18 their reasons for consenting.

19 C. For private civil actions, a copy of the
20 complaint and written disclosure of substantially all material
21 evidence and information the person possesses shall be served
22 on the ~~[department]~~ attorney general. The complaint shall be
23 filed in writing and shall remain under seal for at least sixty
24 days. The complaint shall not be served on the defendant until
25 the expiration of sixty days or any extension approved.

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1 ~~[Within sixty days after receiving a copy of the complaint, the~~
2 ~~department shall conduct an investigation of the factual~~
3 ~~allegations and legal contentions made in the complaint, shall~~
4 ~~make a written determination of whether there is substantial~~
5 ~~evidence that a violation has occurred and shall provide the~~
6 ~~person against which a complaint has been made with a copy of~~
7 ~~the determination. If the department determines that there is~~
8 ~~not substantial evidence that a violation has occurred, the~~
9 ~~complaint shall be dismissed.] The attorney general may~~
10 ~~intervene and proceed with the action within sixty days after~~
11 ~~the attorney general receives both the complaint and the~~
12 ~~material evidence and information.~~

13 D. The ~~[department]~~ attorney general may, for good
14 cause shown, move the court for extensions of time during which
15 the complaint remains under seal. Any such motion may be
16 supported by affidavits or other submissions in camera. The
17 defendant shall not be required to respond to a complaint filed
18 pursuant to this section until twenty days after the complaint
19 is unsealed and served to the defendant. The complaint shall
20 be deemed unsealed at the expiration of the sixty-day period in
21 the absence of a court-approved extension.

22 E. Before the expiration of the sixty-day period or
23 any extensions obtained, the ~~[department, pursuant to~~
24 ~~Subsection F of this section]~~ attorney general shall:

25 (1) proceed with the action, in which case the

1 action shall be conducted by the [~~department~~] state; or

2 (2) notify the court and the person who
3 brought the action that [~~it~~] the state declines to take over
4 the action, in which case the person bringing the action shall
5 have the right to conduct the action [~~if the department~~
6 ~~determined that there is substantial evidence that a violation~~
7 ~~of the Medicaid False Claims Act has occurred.~~

8 ~~F. The department shall notify the attorney general~~
9 ~~prior to filing a civil action pursuant to the Medicaid False~~
10 ~~Claims Act and shall not proceed with the action except with~~
11 ~~the written approval of the attorney general. The attorney~~
12 ~~general shall, within twenty working days from the notification~~
13 ~~by the department, notify the department whether it may proceed~~
14 ~~with the civil action. Failure by the attorney general to~~
15 ~~notify the department of its determination within the specified~~
16 ~~time period shall be construed as consent to proceed. The~~
17 ~~department shall, after filing the civil action, notify the~~
18 ~~attorney general of any proposed dismissal or settlement and~~
19 ~~the department shall not proceed with the dismissal or~~
20 ~~settlement except with the written approval of the attorney~~
21 ~~general]."~~

22 SECTION 5. Section 27-14-8 NMSA 1978 (being Laws 2004,
23 Chapter 49, Section 8) is amended to read:

24 "27-14-8. RIGHTS OF THE PARTIES TO QUI TAM ACTIONS.--

25 A. If the [~~department~~] attorney general proceeds

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1 with the action, ~~[it]~~ the state shall have the ~~[exclusive]~~
2 primary responsibility for prosecuting the action and shall not
3 be bound by an act of the person bringing the action. The
4 person bringing the action shall have the right to continue as
5 a ~~[nominal]~~ party to the action ~~[and shall not have the right~~
6 ~~to participate in the litigation except as a witness]~~ subject
7 to the limitations of this section.

8 B. The ~~[department]~~ attorney general may dismiss
9 the action, ~~[pursuant to Subsection F of Section 7 of the~~
10 ~~Medicaid False Claims Act]~~ notwithstanding the objections of
11 the person bringing the action if the person has been notified
12 by the ~~[department]~~ state of the filing of the motion and the
13 court has provided the person with an opportunity for a hearing
14 on the motion.

15 C. The ~~[department]~~ attorney general may settle the
16 action with the defendant, ~~[pursuant to Subsection F of Section~~
17 ~~7 of the Medicaid False Claims Act]~~ notwithstanding the
18 objections of the person bringing the action if the court
19 determines, after the hearing, that the proposed settlement is
20 fair, adequate and reasonable under all the circumstances.
21 Upon a showing of good cause, such hearing may be held in
22 camera.

23 D. If the state elects not to proceed with the
24 action, the person bringing the action shall have the right to
25 conduct the action. If the ~~[department]~~ attorney general

1 requests, ~~[it]~~ the state shall be served with copies of the
2 pleadings filed in the action and shall be supplied with copies
3 of all deposition transcripts at the ~~[department's]~~ attorney
4 general's expense. When a person proceeds with the action, the
5 court, without limiting the status and rights of the person
6 bringing the action, may allow the ~~[department]~~ attorney
7 general to intervene at a later date upon a showing of good
8 cause.

9 E. Whether or not the ~~[department]~~ attorney general
10 proceeds with the action, upon a showing by the ~~[department]~~
11 attorney general that certain actions of discovery by the
12 person bringing the action would interfere with the
13 ~~[department's]~~ attorney general's investigation or prosecution
14 of a criminal or civil matter arising out of the same facts,
15 the court may stay such discovery for a period not to exceed
16 sixty days. Such a showing shall be conducted in camera. The
17 court may extend the sixty-day period upon a further showing in
18 camera that the ~~[department]~~ attorney general has pursued the
19 criminal or civil investigation or proceedings with reasonable
20 diligence and any proposed discovery in the civil action will
21 interfere with the ongoing criminal or civil investigation or
22 proceedings.

23 F. Upon a showing by the attorney general that
24 unrestricted participation during the course of the litigation
25 by the person initiating the action would interfere with or

1 unduly delay the state's prosecution of the case, or would be
2 repetitious, irrelevant or for purposes of harassment, the
3 court may impose limitations on the person's participation,
4 such as:

5 (1) limiting the number of witnesses that the
6 person may call;

7 (2) limiting the length of the testimony of
8 each witness;

9 (3) limiting the person's cross-examination of
10 witnesses; or

11 (4) otherwise limiting the participation by
12 the person in the litigation.

13 G. Upon a showing by the defendant that
14 unrestricted participation during the course of the litigation
15 by the person initiating the action would be for purposes of
16 harassment or would cause the defendant undue burden or
17 unnecessary expense, the court may limit the participation by
18 the person in the litigation.

19 H. Notwithstanding the provisions of Section
20 27-14-7 NMSA 1978, the attorney general or the state may pursue
21 an action through any alternate remedy available to the state,
22 including any other statutes or administrative proceeding to
23 determine a civil money penalty. If any such alternate remedy
24 is pursued in another proceeding, the person initiating the
25 action shall have the same rights in the proceeding as the

1 person would have had if the action had continued under the
2 Medicaid False Claims Act.

3 I. For the purposes of Subsection H of this
4 section, a finding of fact or conclusion of law made in another
5 proceeding that has become final shall be conclusive on all
6 parties to an action under this section. A finding or
7 conclusion is final if it has been finally determined on appeal
8 to the appropriate court, if all time for filing an appeal with
9 respect to the finding or conclusion has expired or if the
10 finding or conclusion is not subject to judicial review."

11 **SECTION 6.** Section 27-14-9 NMSA 1978 (being Laws 2004,
12 Chapter 49, Section 9) is amended to read:

13 "27-14-9. AWARD TO QUI TAM PLAINTIFF.--

14 A. If the [~~department~~] attorney general proceeds
15 with an action brought by a person pursuant to the Medicaid
16 False Claims Act, the person shall, subject to the limitations
17 in this subsection, receive at least fifteen percent but not
18 more than twenty-five percent of the proceeds of the action or
19 settlement of the claim, depending upon the extent to which the
20 person substantially contributed to the prosecution of the
21 action. Where the action is one that the court finds to be
22 based primarily on disclosures of specific information other
23 than information provided by the party bringing the action
24 relating to allegations or transactions in a criminal, civil or
25 administrative hearing or from the news media, the court shall

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1 award a sum as it considers appropriate; provided that the sum
2 does not exceed ten percent of the proceeds and takes into
3 account the significance of the information and the role of the
4 person bringing the action in advancing the case to litigation.
5 A payment to a person pursuant to this subsection shall be made
6 from the proceeds. The person shall also receive an amount for
7 reasonable expenses that the court finds to have been
8 necessarily incurred, plus reasonable attorney fees and costs.
9 ~~[In determining the amount of reasonable attorney fees and~~
10 ~~costs, the court shall consider whether such fees and costs~~
11 ~~were necessary to the prosecution of the action, were incurred~~
12 ~~for activities that were duplicative of the activities of the~~
13 ~~department in prosecuting the case or were repetitious,~~
14 ~~irrelevant or for purposes of harassment or caused the~~
15 ~~defendant undue burden or unnecessary expense.]~~ All such
16 expenses, fees and costs shall be awarded against the
17 defendant.

18 B. If the ~~[department]~~ attorney general does not
19 proceed with an action pursuant to the Medicaid False Claims
20 Act, the person bringing the action or settling the claim shall
21 receive an amount that the court decides is reasonable for
22 collecting the civil recovery and damages ~~[recoverable by the~~
23 ~~state]~~. The amount shall be not less than twenty-five percent
24 and not more than thirty percent of the proceeds of the action
25 or settlement and shall be paid out of such proceeds. The

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1 person shall also receive an amount for reasonable expenses
2 that the court finds to have been necessarily incurred, plus
3 reasonable attorney fees and costs. [~~In determining the amount
4 of reasonable attorney fees and costs, the court shall consider
5 whether such fees and costs were necessary to the prosecution
6 of the action, were incurred for activities which were
7 repetitious, irrelevant or for purposes of harassment or caused
8 the defendant undue burden or unnecessary expense.~~] All such
9 expenses, fees and costs shall be awarded against the
10 defendant.

11 C. Whether or not the [~~department~~] attorney general
12 proceeds with the action, if the court finds that the action
13 was brought by a person who planned and initiated the violation
14 upon which the action was brought, then the court may, to the
15 extent the court considers appropriate, reduce the share of the
16 proceeds of the action that the party would otherwise receive
17 pursuant to Subsection A or B of this section, taking into
18 account the role of that person in advancing the case to
19 litigation and any relevant circumstances pertaining to the
20 violation. If the person bringing the action is convicted of
21 criminal conduct arising from the person's role in the
22 violation of the Medicaid False Claims Act, that person shall
23 be dismissed from the civil action and shall not receive any
24 share of the proceeds of the action. Such dismissal shall not
25 prejudice the right of the state to continue the action

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1 represented by the ~~[department]~~ attorney general. If the
2 ~~[department]~~ attorney general does not proceed with the action
3 and the person bringing the action conducts the action, the
4 court may award to the defendant its reasonable attorney fees
5 and costs if the defendant prevails in the action and the court
6 finds that the claim of the party bringing the action was:

7 (1) ~~[filed for an improper purpose]~~ clearly
8 frivolous;

9 (2) ~~[not warranted by existing law or by a~~
10 ~~nonfrivolous argument for the extension, modification or~~
11 ~~reversal of existing law or the establishment of new law]~~
12 clearly vexatious; or

13 (3) ~~[was based on allegations or factual~~
14 ~~contentions not supported]~~ brought primarily for purposes of
15 harassment."

16 SECTION 7. Section 27-14-10 NMSA 1978 (being Laws 2004,
17 Chapter 49, Section 10) is amended to read:

18 "27-14-10. CERTAIN ACTIONS BARRED.--

19 A. A court shall not have jurisdiction of an action
20 brought pursuant to the Medicaid False Claims Act against a
21 ~~[department]~~ state official if the action is substantially
22 based on evidence or information known to the ~~[department]~~
23 state when the action was brought.

24 B. A person shall not bring an action pursuant to
25 the Medicaid False Claims Act that is substantially based upon

1 allegations or transactions that are the subject of a civil
 2 suit or an administrative proceeding in which the ~~[department]~~
 3 state is already a party.

4 C. A court shall not have jurisdiction over an
 5 action pursuant to the Medicaid False Claims Act substantially
 6 based upon the public disclosure of allegations or actions in a
 7 criminal, civil or administrative hearing in which the state is
 8 a party or from the news media, unless the action is brought by
 9 the ~~[department]~~ attorney general or the person bringing the
 10 action is an original source of the information. For the
 11 purposes of this subsection, "original source" means the person
 12 bringing suit that has independent knowledge, including
 13 knowledge based on the person's own investigation of the
 14 defendant's conduct, of the information on which the
 15 allegations are based and has voluntarily provided or verified
 16 the information on which the allegations are based or has
 17 voluntarily provided the information to the ~~[department]~~
 18 attorney general before filing an action pursuant to this
 19 section that is based on the information."

20 SECTION 8. Section 27-14-11 NMSA 1978 (being Laws 2004,
 21 Chapter 49, Section 11) is amended to read:

22 "27-14-11. ~~[DEPARTMENT]~~ STATE NOT LIABLE FOR CERTAIN
 23 EXPENSES.--The ~~[department]~~ state shall not be liable for
 24 expenses that a person incurs in bringing an action pursuant to
 25 the Medicaid False Claims Act."

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1 SECTION 9. Section 27-14-12 NMSA 1978 (being Laws 2004,
2 Chapter 49, Section 12) is amended to read:

3 "27-14-12. [~~EMPLOYEE~~] WHISTLEBLOWER PROTECTION.--Any
4 employee, agent or contractor who is discharged, demoted,
5 suspended, threatened, harassed or otherwise discriminated
6 against in the terms and conditions of employment by the
7 employer because of lawful acts done by the employee, agent or
8 contractor on behalf of the employee, agent or contractor or
9 others in disclosing information to the [~~department~~] attorney
10 general or in furthering a false claims action pursuant to the
11 Medicaid False Claims Act, including investigation for,
12 initiation of, testimony for or assistance in an action filed
13 or to be filed pursuant to that act, shall be entitled to all
14 relief necessary to make the employee, agent or contractor
15 whole. Such relief shall include reinstatement with the same
16 seniority status that the employee, agent or contractor would
17 have had but for the discrimination, two times the amount of
18 back pay, interest on the back pay and compensation for any
19 special damages sustained as a result of the discrimination,
20 including litigation costs and reasonable attorney fees. An
21 employee, agent or contractor may bring an action in the
22 appropriate court of the state for the relief provided in this
23 subsection. A civil action under this section shall not be
24 brought more than three years after the date on which the
25 retaliation occurred."

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1 SECTION 10. Section 27-14-13 NMSA 1978 (being Laws 2004,
2 Chapter 49, Section 13) is amended to read:

3 "27-14-13. FALSE CLAIMS AND REPORTING PROCEDURE.--

4 A. A civil action [~~shall be brought within the~~
5 ~~limitations set forth in Section 37-1-4 NMSA 1978~~] under
6 Section 27-14-4 NMSA 1978 may not be brought more than six
7 years after the date on which the violation of Section 27-14-4
8 NMSA 1978 is committed, or more than three years after the date
9 when facts material to the right of action are known or
10 reasonably should have been known by the attorney general, but
11 in no event more than ten years after the date on which the
12 violation is committed, whichever occurs last.

13 B. If the state elects to intervene and proceed
14 with an action brought under Section 27-14-8 NMSA 1978, the
15 state may file its own complaint or amend the complaint of a
16 person who has brought an action under Section 27-14-8 NMSA
17 1978 to clarify or add detail to the claims in which the state
18 is intervening and to add any additional claims with respect to
19 which the state contends it is entitled to relief. For
20 statute-of-limitations purposes, any such state pleading shall
21 relate back to the filing date of the complaint of the person
22 who originally brought the action, to the extent that the claim
23 of the state arises out of the conduct, transactions or
24 occurrences set forth, or attempted to be set forth, in the
25 prior complaint of that person.

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1 ~~[B-]~~ C. In any action brought pursuant to the
2 Medicaid False Claims Act, the ~~[department]~~ state or the person
3 bringing the action shall be required to prove all essential
4 elements of the cause of action, including damages, by a
5 preponderance of the evidence.

6 ~~[G-]~~ D. Notwithstanding any rule or other provision
7 of law, a final judgment rendered in favor of the ~~[department]~~
8 state in any criminal proceeding charging fraud or false
9 statements, whether upon a verdict after trial or upon a plea
10 of guilty or nolo contendere, shall ~~[preclude]~~ estop the
11 defendant from denying the essential elements of the offense in
12 any action that involves the same transaction as in the
13 criminal proceeding and that is brought pursuant to the
14 Medicaid False Claims Act."

15 **SECTION 11.** Section 27-14-15 NMSA 1978 (being Laws 2004,
16 Chapter 49, Section 15) is amended to read:

17 "27-14-15. USE OF FUNDS.--

18 A. Damages collected pursuant to the Medicaid False
19 Claims Act on behalf of the state shall be remitted to the
20 state treasurer for deposit in the general fund to be used for
21 the state's medicaid program.

22 B. Penalties, legal fees or costs of investigation
23 recovered pursuant to the Medicaid False Claims Act on behalf
24 of the state shall be remitted to the state treasurer for
25 deposit in the general fund to be used for the state's medicaid

1 program.

2 [C. Pursuant to Subsection C of Section 30-44-8
3 NMSA 1978, penalties recovered pursuant to the Medicaid False
4 Claims Act on behalf of the state may be claimed by the
5 attorney general pursuant to procedures established by the
6 department and the attorney general.]"

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~~[bracketed material]~~ = delete