

HCS SS SCS SB 1210, 1244 & 844 -- MISSOURI MEDICAID FRAUD

SPONSOR: Koster (Pratt)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Healthcare Facilities by a vote of 10 to 0.

This substitute allows individuals to sue for Medicaid fraud and changes the provisions regarding the reporting and investigation of the fraud. In its main provisions, the substitute:

(1) Specifies that any person who willfully prevents, obstructs, misleads, delays, or attempts to prevent, obstruct, mislead, or delay the communication of information relating to fraud will be guilty of a class D felony;

(2) Specifies that any person discovering a violation and reporting the information voluntarily before it becomes public or known to the Attorney General will not be criminally prosecuted;

(3) Allows any person who is the original source of the information used by the Attorney General to receive 10% of any recovery unless that individual planned, initiated, or participated in the conduct;

(4) Prohibits an employer from discharging, demoting, suspending, threatening, harassing, or otherwise discriminating against an employee because he or she initiates, assists, or participates in a proceeding or court action. An employer violating this section must reinstate the employee without loss of seniority, two times the amount of lost back pay, and interest. This will not apply to an employee who has brought a frivolous claim; planned, initiated, or assisted in the wrong doing; or has been convicted of Medicaid fraud;

(5) Requires the Attorney General to report by January 1, 2007, and annually thereafter, to the General Assembly and the Governor on the number of investigations conducted; number of referrals; total amount of overpayments, fines, and restitutions; moneys recovered; and number of arrests, indictments, and convictions;

(6) Requires the Department of Social Services to report by January 1, 2007, and annually thereafter, to the General Assembly and the Governor on the number of Medicaid provider and recipient investigations; long-term care facilities reviewed; referrals sent by the Office of the Attorney General; total amount of overpayments, fines, and restitutions; moneys recovered; and number of administrative sanctions against Medicaid providers;

(7) Prohibits any person from knowingly destroying or concealing

medical records with the intent to defraud the medical assistance programs. A violation of this provision will be guilty of a class A misdemeanor;

(8) Specifies that a person submitting a claim or upon receipt for medical assistance must not destroy or conceal any records for five years after payment was received or submitted if payment was not received;

(9) Specifies that any person who intentionally files a false report or claim alleging Medicaid fraud will be guilty of a class A misdemeanor. Any subsequent violations or any person receiving compensation in exchange for knowingly failing to report fraud will be guilty of a class D felony; and

(10) Creates, beginning September 1, 2006, an advisory working group to study whether an Office of Inspector General should be established for the oversight, auditing, investigation, and performance review of state medical assistance programs to deter and identify fraud, abuse, and illegal acts.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$75,519 to \$175,519 in FY 2007, \$88,547 to \$188,547 in FY 2008, and \$90,762 to \$190,762 in FY 2009. No impact on Other State Funds in FY 2007, FY 2008, and FY 2009.

PROPOSERS: Supporters say the bill is necessary because up to 10% of the state's Medicaid budget goes to paying fraudulent claims. Under the federal Deficit Reduction Act of 2005, if a state has a qualifying false claims act, it will be eligible for a 10% increase when Medicaid false claims act cases are decided.

Testifying for the bill were Senator Koster; Representative Pratt; Division of Medical Services, Department of Social Services; and Missouri Budget Project.

OPPOSERS: Those who oppose the bill say that it will cause physicians to stop seeing Medicaid patients because a minor mistake by the healthcare provider could result in a felony prosecution.

Testifying against the bill were Missouri State Medical Association; Missouri Podiatric Medical Association; Missouri Association of Osteopathic Physicians and Surgeons; Eastern Missouri Psychiatric Society; Missouri Health Care Association; Missouri Retailers Association; Missouri Pharmacy Association; and BJC HealthCare.

Dominic Lackey, Legislative Analyst