

Senate Bill No. 568

(By Senator Takubo)

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[Introduced February 23, 2015; referred to the Committee on Health and Human Resources; and
then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §9-7-1 and §9-7-6 of the Code of West Virginia, 1931, as amended,
all relating to Medicaid fraud and abuse; and transferring the duties of the fraud control unit
in the Department of Health and Human Resources to the Medicaid Fraud Control Unit of
the Attorney General's office after July 1, 2016; and allowing the Attorney General to use
contract attorneys to bring civil suits for Medicaid fraud.

Be it enacted by the Legislature of West Virginia:

That §9-7-1 and §9-7-6 of the Code of West Virginia, 1931, as amended, be amended and
reenacted, all to read as follows:

ARTICLE 7. FRAUD AND ABUSE IN THE MEDICAID PROGRAM.

§9-7-1. Legislative purpose and findings; powers and duties of fraud control unit.

(a) It is the ~~purpose~~ intent of the Legislature to continue the Medicaid Fraud Control Unit
previously established within the West Virginia Department of Health and Human Resources and

1 to provide it with the responsibility and authority for investigating and controlling fraud and abuse
2 of the medical programs of the State Department of Health and Human Resources which have been
3 established pursuant to section two, article four of this chapter. It is the finding of the Legislature
4 that substantial sums of money have been lost to the state and federal government in the operation
5 of the medical programs of the state due to the overpayment of moneys to medical providers. Such
6 overpayments have been the result of both the abuse of and fraud in the reimbursement process.

7 (b) The Medicaid Fraud Control Unit of the State Department of Health and Human
8 Resources shall, after July 1, 2016, be continued, in the Medicaid Fraud Control Unit of the Attorney
9 General's office and shall have the following powers and duties:

10 (1) The investigation and referral for prosecution of all violations of applicable state and
11 federal laws pertaining to the provision of goods or services under the medical programs of the state
12 including the Medicaid program.

13 (2) The investigation of abuse, neglect or financial exploitation of residents in board and care
14 facilities and patients in health care facilities which receive payments under the medical programs
15 of the state.

16 (3) To cooperate with the federal government in all programs designed to detect and deter
17 fraud and abuse in the medical programs of the state.

18 (4) To employ and train personnel to achieve the purposes of this article and to employ legal
19 counsel, investigators, Auditors and clerical support personnel and such other personnel as are
20 deemed necessary from time to time to accomplish the purposes herein.

21 **§9-7-6. Civil remedies.**

1 (a) Any person, firm, corporation or other entity which willfully, by means of a false
2 statement or representation, or by concealment of any material fact, or by other fraudulent scheme,
3 devise or artifice on behalf of himself, herself, itself, or others, obtains or attempts to obtain benefits
4 or payments or allowances under the medical programs of the Department of Health and Human
5 Resources to which he or she or it is not entitled, or, in a greater amount than that to which he or she
6 or it is entitled, shall be liable to the Department of Health and Human Resources in an amount equal
7 to three times the amount of such benefits, payments or allowances to which he or she or it is not
8 entitled, and shall be liable for the payment of reasonable attorney fees and all other fees and costs
9 of litigation.

10 (b) No criminal action or indictment need be brought against any person, firm, corporation
11 or other entity as a condition for establishing civil liability hereunder.

12 (c) A civil action under this section may be prosecuted and maintained on behalf of the
13 Department of Health and Human Resources by the Attorney General and the Attorney General's
14 assistants or, by any attorney in contract with or employed with the Attorney General to provide such
15 representation. If the Attorney General declines to do so, the civil action shall be maintained either
16 by a prosecuting attorney and the prosecuting attorney's assistants or by any attorney in contract with
17 or employed by the Department of Health and Human Resources to provide such representation.

NOTE: The purpose of this bill is to transfer the duties of the fraud control unit of the Department of Health and Human Resources to the Medicaid Fraud Control Unit of the Attorney General's office after July 1, 2016 and to allow the Attorney General to use contract attorneys to bring civil cases for Medicaid fraud.

Strike-throughs indicate language that would be stricken from the present law, and

underscoring indicates new language that would be added.