

STATE OF TEXAS

The Texas Medicaid Fraud Prevention Law Executive Summary

The Texas Medicaid Fraud Prevention Law (“FPL”) combats fraud and abuse by health care providers participating in the Texas State Medicaid Program. Tex. Hum. Res. Code Ann. §§ 36.001 et seq

Liability and Damages

• Actions that violate the FPL include:

- (1) making a false statement or concealing information that affects the right to a Medicaid benefit or payment,
- (2) submitting a claim for Medicaid payment for a product or service rendered by a person who is not licensed to provide that product or service or fails to indicate the license of the practitioner who actually performed the service,
- (3) submitting a claim for a service or product that has not been approved by the treating health care practitioner, or
- (4) conspiring to defraud the state by obtaining an unauthorized payment from the Medicaid program or its fiscal agent.

• The law requires restitution of the value of any Medicaid payment plus interest, damages of two times the value of the payment, and a civil penalty of \$5,000 to \$15,000 for each violation that results in an injury to a disabled person, an elderly person, or a person younger than 18 years of age. If the violation does not result in such an injury, the law requires a civil penalty of \$5,000 to \$10,000 for each violation and damages of two times the value of the payment. A court may waive the civil penalties and award two times the amount of the payment if the defendant voluntarily discloses the violations.

Whistleblower Provisions

• Private individuals who report fraud receive between 15 and 25 percent of the total amount recovered if the state prosecutes the case. If the state declines to take over the action, the person bringing the action may proceed without the state’s participation and will be entitled to receive at least 25 percent but not more than 30 percent of the proceeds of the action. The FPL contains important protections for whistleblowers.

• Employees who suffer discrimination because of their involvement in false claims actions may be awarded

- (1) two times their back pay plus interest,
- (2) reinstatement at the seniority level they would have had but for the discrimination, and
- (3) compensation for any costs or damages they have incurred.