

50-24.8-11. Medicaid fraud - Criminal penalty.

1. A person commits a criminal offense under this section if the person knowingly:
 - a. Presents for allowance, for payment, or for the purpose of concealing, avoiding, or decreasing an obligation to pay a false or fraudulent medical assistance claim, bill, account, voucher, or writing to a public agency, public servant, or contractor authorized to allow or pay medical assistance claims;
 - b. Solicits, accepts, offers, or provides any remuneration, including a kickback, bribe, or rebate in exchange for purchasing, leasing, ordering, arranging for, or recommending the purchasing, leasing, or ordering of any services or items from a provider for which payment may be made under the Medicaid program;
 - c. Solicits, accepts, offers, or provides any remuneration, including a kickback, bribe, or rebate in exchange for a fee for referring a recipient to another provider or arranging for the furnishing of services or items for which payment may be made under the Medicaid program;
 - d. Fails or refuses to provide covered medically necessary services to eligible recipients as required with respect to a managed care contract, health maintenance organization contract, or similar contract or subcontract under the Medicaid program; or
 - e. Conspires with another person to commit a violation of this section.
2. Conduct or activity that does not violate or which is protected under the provisions of, or federal regulations adopted under 42 U.S.C. 1395nn and 42 U.S.C. 1320a-7b(b), is not considered an offense under subdivision b of subsection 1, and the conduct or activity must be accorded the same protections allowed under federal laws and regulations.
3. A person convicted of this offense involving payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims not exceeding one thousand dollars in value is guilty of a class A misdemeanor.
4. Notwithstanding subsection 3, if the value of the payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims of the Medicaid fraud were part of a common scheme and exceed one thousand dollars in value, a violation of this chapter is a class C felony.
5. Notwithstanding subsection 3, if the value of the payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims of the Medicaid fraud were part of a common scheme and exceed ten thousand dollars in value but do not exceed fifty thousand dollars, a violation of this chapter is a class B felony.
6. Notwithstanding subsection 3, if the value of the payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims of the Medicaid fraud were part of a common scheme and exceed fifty thousand dollars in value, a violation of this chapter is a class A felony.
 - a. For purposes of imposing sentence for a conviction under this chapter, the value of payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims involved is the greater of the value of Medicaid payments or benefits received as a result of the illegal conduct or activity or the value of the payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claim involved.
 - b. Amounts involved in Medicaid fraud committed pursuant to a common scheme or the same transaction may be aggregated in determining the value involved.
 - c. A person convicted of the offense of Medicaid fraud must be suspended from participation in the Medicaid program:
 - (1) For any period of time not less than one year for a first offense or the person may be permanently terminated from participation in the medical assistance program;
 - (2) For any period of time not less than three years for a second offense, or the person may be permanently terminated from participation in the medical assistance program; or
 - (3) Permanently for a third offense.
7. In addition to any other penalty provided by law, a person convicted of Medicaid fraud is not entitled to bill or collect from the recipient, the Medicaid program, or any other third-party payer for the services or items involved and shall repay to the Medicaid program any payments or benefits obtained by any person for the services or items involved.