

HOUSE BILL NO. 1227

Introduced by

Representatives Hogan, P. Anderson, K. Koppelman, Mitskog, Olson, Schneider

Senators Grabinger, Nelson, Sorvaag

1 A BILL for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota
2 Century Code, relating to medicaid fraud; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 12.1-31 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Medicaid fraud.**

7 1. It is a violation of this section if:

8 a. A person obtains a medical assistance payment or benefit for the person or
9 another person by knowingly making, submitting, or authorizing the making or
10 submitting of a false or misleading medical assistance claim, statement,
11 representation, application, or document to the department of human services or
12 the department's agent for a service or item the person is not entitled to under
13 applicable law or under rules adopted by the department.

14 b. A person knowingly:

15 (1) Solicits, accepts, offers, or provides any remuneration, including a kickback,
16 bribe, or rebate, other than an amount legally payable under the medical
17 assistance program, for furnishing services or items for which payment may
18 be made under the medical assistance program or in return for purchasing,
19 leasing, ordering, arranging for, or recommending the purchasing, leasing,
20 or ordering of any services or items from a provider for which payment may
21 be made under the medical assistance program;

22 (2) Makes, offers, or accepts a remuneration, a rebate of a fee, or a charge for
23 referring a recipient to another provider for the furnishing of services or

- 1 items for which payment may be made under the medical assistance
2 program; or
- 3 (3) With respect to a managed care contract, health maintenance organization
4 contract, or similar contract or subcontract under the medical assistance
5 program, fails or refuses to provide covered, medically necessary services
6 to eligible recipients as required by the contract.
- 7 2. Conduct or activity that does not violate or which is protected under the provisions of,
8 or federal regulations adopted under, 42 U.S.C. 1395nn or 42 U.S.C. 1320a-7b(b), is
9 not an offense under subdivision b of subsection 1 and the conduct or activity must be
10 accorded the same protections allowed under federal laws and regulations.
- 11 3. In a prosecution for a violation of this section, it is a defense if the person acted in
12 reliance upon the written authorization or advice of the department of human services.
- 13 4. A person convicted under this section for an act involving payments, benefits, or
14 claims not exceeding one thousand dollars in value is guilty of a class A misdemeanor.
- 15 5. Notwithstanding subsection 4, if the value of the payments, benefits, or claims of the
16 act were part of a common scheme and exceed:
- 17 a. One thousand dollars in value, a violation of this section is a class C felony.
18 b. Ten thousand dollars in value but do not exceed fifty thousand dollars, a violation
19 of this section is a class B felony.
20 c. Fifty thousand dollars in value, a violation of this section is a class A felony.
- 21 6. For purposes of imposing a sentence for a conviction under this section, the value of
22 payments or benefits involved is the greater of the value of medical assistance
23 payments or benefits received as a result of the illegal conduct or activity or the value
24 of the remuneration, rebate, or charge involved.
- 25 7. Amounts involved in an act committed pursuant to a common scheme or the same
26 transaction may be aggregated in determining the value involved.
- 27 8. A person convicted of an offense under this section must be suspended from
28 participation in the medical assistance program:
- 29 a. For any period of time not less than one year for a first offense, or the person
30 may be permanently terminated from participation in the medical assistance
31 program;

- 1 b. For any period of time not less than three years for a second offense, or the
2 person may be permanently terminated from participation in the medical
3 assistance program; or
4 c. Permanently for a third offense.
5 9. In addition to any other penalty provided by law, a person convicted of violation of this
6 section is not entitled to bill or collect from the recipient, the medical assistance
7 program, or any other third-party payer for the services or items involved and shall
8 repay to the medical assistance program any payments or benefits obtained by any
9 person for the services or items involved.