

COLORADO LAW

Colorado law imposes civil liability on persons who present false claims for payment under the Colorado Medicaid program. Colorado law also imposes criminal liability on any person who obtains vendor payments under its Medicaid program to which the person is not entitled by means of a willfully false statement or representation.

Colorado Revised Statutes § 25.5-4-305 provides, in pertinent part, that it is unlawful for any person to:

- Intentionally or with reckless disregard make or cause to be made any false representation of a material fact in connection with a claim;
- Intentionally or with reckless disregard present or cause to be presented to the state department a false claim for payment or approval;
- Intentionally or with reckless disregard present or cause to be presented any cost document required by the medical assistance program that the person knows contains a false material statement.

“Intentionally” means the person has actual knowledge of the falsity of the information and acts with specific intent to defraud. “Reckless disregard” means the person acts with conscious indifference to the truth or falsity of the information and does not require proof of specific intent to defraud.

The state Medicaid agency may commence a civil action against any person believed to have violated the provisions of § 25.5-4-305. Upon finding the person has intentionally violated § 25.5-4-305, the court shall order such person to pay full restitution of the amount received plus a civil penalty of \$5,000 per claim or two times the amount received from the false claim, or both. If the court finds the person has, with reckless disregard, violated § 25.5-4-305, the court shall order such person to pay full restitution of the amount received plus a civil penalty of \$1,000 per claim, but in no event more than \$50,000 or two times the amount received from the false claim. The civil action that may be brought by the state Medicaid agency is not exclusive, but is in addition to any other available civil, criminal or administrative action, penalty or remedy.

Colorado Revised Statutes § 26-1-127 states, in pertinent part, that:

Any person who obtains or any person who willfully aids or abets another to obtain public assistance or vendor payments or medical assistance as defined in this title to which the person is not entitled or in an amount greater than that to which the person is justly entitled or in a greater amount than that to which the person is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, commits the crime of theft,

Depending upon the circumstances and amount of the offense, the violation will be classified for punishment as either a misdemeanor or felony, and can result in imprisonment or fines. Violation of this law can also result in temporary or permanent disqualification from participating in the Medicaid program.

At the time VistaCare's False Claims Policy was adopted, Colorado had not enacted its own legislation similar to the Federal False Claims Act allowing private citizens or employees to file civil lawsuits to recover monetary damages against individuals and entities that submit false or fraudulent claims to the state Medicaid program.

Colorado has not enacted legislation prohibiting employers from taking disciplinary or retaliatory action against an employee who makes a lawful report of a violation of state or federal statutes. However, VistaCare's False Claims Policy requires all employees, contractors and agents with knowledge of potential fraud and abuse situations to report them, and prohibits retaliation or retribution for good faith reporting.

Should Colorado enact additional legislation pertaining to the submission of false claims, this summary will be updated to include detailed information about this false claims legislation and any additional penalties, civil or criminal, imposed pursuant to that legislation for false claims and statements.

References:

False Medicaid Claims: C.R.S. §§ 25.5-4-304 to 25.5-4-306

Fraudulent Acts: C.R.S. § 26-1-127