

FINAL BILL REPORT

SB 5163

C 90 L 23
Synopsis as Enacted

Brief Description: Removing the sunset provisions on the medicaid fraud false claims act.

Sponsors: Senators Rivers, Dhingra, Hasegawa, Keiser, Kuderer, Mullet and Muzzall; by request of Attorney General.

Senate Committee on Law & Justice
Senate Committee on Ways & Means
House Committee on Civil Rights & Judiciary

Background: Medicaid Fraud. Medicaid is a joint federal-state program that pays providers who deliver health care to eligible populations. Medicaid fraud is a type of fraud in which health care providers knowingly submit false claims for payment. Medicaid fraud increases costs for the state and federal government, and may result in patient harm.

The Medicaid Fraud False Claims Act. The state adopted the Medicaid Fraud False Claims Act (Act) in 2012. The Act allows the state Attorney General's Office (AGO) and private citizens to file complaints against Medicaid providers who are suspected of fraudulent activities. Prior to the Act, the AGO could only pursue criminal cases. The original Act was set to expire on June 30, 2016. The 2016 Legislature made certain portions of the Act permanent and extended the expiration date of the Act's qui tam provisions until June 30, 2023.

Qui Tam Provisions. The qui tam provisions of the Act allow private parties, called relators, to file fraud complaints in civil court against a Medicaid provider on the state's behalf. Qui tam relators often have first-hand knowledge of potential fraudulent activities, and can identify fraud that may not be detected through other means, such as referral from state agencies or criminal proceedings. The AGO must investigate all state qui tam complaints. If the AGO or court finds sufficient evidence that fraud occurred, the provider pays a financial recovery, either through a settlement with the AGO or a court order. The recovery is shared by the state and relator. Forty-three states have false claims acts, with 29 of these including qui tam provisions.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Joint Legislative Audit Review Committee Sunset Review. In 2022, the Joint Legislative Audit Review Committee (JLARC) completed a sunset review of the Act's qui tam provisions. JLARC found that the AGO implements the qui tam provisions consistent with legislative intent, and that the AGO recovered 18 times more than it spent, or about \$72 million, during the study period. There have been 19 qui tam actions filed under the Act since its inception in Washington. Of these 19, seven are still pending, and in one instance the relator's complaint was ruled to be frivolous. JLARC concluded that the qui tam process works as intended and recommends reauthorizing the qui tam provisions and making them permanent.

Summary: Provisions of law that would repeal the qui tam provisions of the Medicaid Fraud False Claims Act on June 30, 2023, are repealed.

Votes on Final Passage:

Senate 48 0

House 95 3

Effective: April 14, 2023