

## **RS 46:440.1**

### **SUBPART D. FRAUD AND ABUSE DETECTION AND PREVENTION**

#### **§440.1. Medical Assistance Programs Fraud Detection Fund**

A. The Medical Assistance Programs Fraud Detection Fund, hereafter referred to as the "fund", is created in the state treasury as a special fund. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund and interest earned on the investment of monies in the fund shall be credited to the fund. All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the fund.

B. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, all monies received by the state pursuant to a civil award granted or settlement under the provisions of this Part, except for the amount to make the medical assistance programs whole, shall be deposited into the fund.

C. Fifty percent of the monies collected and deposited into the fund shall be allocated to the Medicaid Fraud Control Unit within the office of the attorney general.

D. Fifty percent of the monies collected and deposited into the fund shall be allocated to the Louisiana Department of Health to be used solely for Medicaid fraud detection and for the purposes specified in Subsection E of this Section.

E. The monies in the fund shall not be used to replace, displace, or supplant state general funds appropriated for the daily operation of the department or the medical assistance programs and may be appropriated by the legislature for the following purposes only:

(1) To pay costs or expenses incurred by the department or the attorney general relative to an action instituted pursuant to this Part.

(2) To enhance fraud and abuse detection and prevention activities related to the medical assistance programs, including the activities of the task force on coordination of Medicaid fraud detection and prevention initiatives established pursuant to Subpart D-1 of this Part.

(3) To pay rewards for information concerning fraud and abuse as provided in Subpart B of this Part.

(4) To provide a source of revenue for the Medical Assistance Program in the event of a change in federal policy which results in an increase in state participation or a shortfall in state general fund due to a decrease in the official forecast, as defined in R.S. 39:2(30), during a fiscal year.

Acts 1997, No. 1373, §1; Acts 2008, No. 712, §1, eff. July 1, 2009; Acts 2017, No. 420, §1.

**NOTE: See R.S. 46:440.8 regarding termination of Subpart on Aug. 1, 2019.**

## **RS 46:440.2**

#### **§440.2. Rewards for fraud and abuse information**

A. The secretary may provide a reward of up to two thousand dollars to an individual who submits information to the secretary which results in recovery pursuant to the provisions of this Part, provided such individual is not himself subject to recovery under this Part.

B. The secretary shall grant rewards only to the extent monies are appropriated for this purpose from the Medical Assistance Programs Fraud Detection Fund. The secretary shall determine the amount of a reward, not to exceed two thousand dollars per individual per action, and establish a process to grant the reward in accordance with rules and regulations promulgated in accordance with the Administrative Procedure Act.

Acts 1997, No. 1373, §1.

**NOTE: See R.S. 46:440.8 regarding termination of Subpart on Aug. 1, 2019**

## **RS 46:440.3**

### **§440.3. Whistleblower protection and cause of action**

A. No employee shall be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner in the terms and conditions of his employment because of any lawful act engaged in by the employee or on behalf of the employee in furtherance of any action taken pursuant to this Part in regard to a health care provider or other person from whom recovery is or could be sought. Such an employee may seek any and all relief for his injury to which he is entitled under state or federal law.

B. No individual shall be threatened, harassed, or discriminated against in any manner by a health care provider or other person because of any lawful act engaged in by the individual or on behalf of the individual in furtherance of any action taken pursuant to this Part in regard to a health care provider or other person from whom recovery is or could be sought except that a health care provider may arrange for a recipient to receive goods, services, or supplies from another health care provider if the recipient agrees and the arrangement is approved by the secretary. Such an individual may seek any and all relief for his injury to which he is entitled under state or federal law.

C.(1) An employee of a private entity may bring his action for relief against his employer or the health care provider in the same court as the action or actions were brought pursuant to this Part or as part of an action brought pursuant to this Part.

(2) A person aggrieved of a violation of Subsection A or B of this Section shall be entitled to exemplary damages.

D. A qui tam plaintiff shall not be entitled to recovery pursuant to this Section if the court finds that the qui tam plaintiff instituted or proceeded with an action that was frivolous, vexatious, or harassing.

Acts 1997, No. 1373, §1.

NOTE: See R.S. 46:440.8 regarding termination of Subpart on Aug. 1, 2019.

## **RS 46:440.4**

### **SUBPART D-1. COORDINATION OF FRAUD AND ABUSE DETECTION AND PREVENTION INITIATIVES**

#### **§440.4. Legislative findings; purpose**

A. The legislature hereby finds and declares all of the following:

(1) Cost containment in the medical assistance program operated pursuant to Title XIX of the Social Security Act, referred to hereafter in this Subpart as "Medicaid", is an urgent priority of this state.

(2) It is the policy of this state to combat and prevent fraud and abuse committed by any healthcare provider participating in the Medicaid program and by any other persons including Medicaid enrollees, and to negate the adverse effects of Medicaid fraud and abuse on the fiscal integrity and public health of this state.

B. The purpose of this Subpart is to create an interagency task force to coordinate existing Medicaid fraud detection and prevention efforts and to recommend means for enhancing the efficacy of those efforts.

Acts 2017, No. 420, §1.

NOTE: See R.S. 46:440.8 regarding termination of Subpart on Aug. 1, 2019.

## **RS 46:440.5**

### **§440.5. Task force on coordination of Medicaid fraud detection and prevention initiatives; creation; membership**

A. There is hereby created within the office of the legislative auditor a task force on coordination of Medicaid fraud detection and prevention initiatives, referred to hereafter in this Subpart as the "task force".

B. The task force shall be composed of the following members:

- (1) The governor or his designee.
- (2) The attorney general or his designee.
- (3) The legislative auditor or his designee.
- (4) The inspector general or his designee.
- (5) One member of the House of Representatives appointed by the speaker of the House of Representatives.

(6) One member of the Senate appointed by the president of the Senate.

(7) The secretary of the Louisiana Department of Health or his designee.

C. The task force shall include the following nonvoting advisory members who, upon request of the task force chairman, shall cooperate with and assist in the efforts of the task force:

- (1) One advisory member appointed by the secretary of the Louisiana Department of Health.
- (2) One advisory member appointed by the secretary of the Department of Revenue.
- (3) One advisory member appointed by the governor who represents the medical field.
- (4) One advisory member appointed by the governor who represents the dental field.

D. At the first meeting of the task force, the members of the task force shall select one eligible member to serve as chairman. Any member except a legislator shall be eligible to serve as chairman of the task force.

E.(1) The task force shall adopt rules of procedure and any other policies as may be necessary to facilitate the work of the group.

(2) The task force may form subcommittees for examination of special topics and issues within the overall subject matter of Medicaid fraud detection and prevention.

Acts 2017, No. 420, §1.

NOTE: See R.S. 46:440.8 regarding termination of Subpart on Aug. 1, 2019.

## **RS 46:440.6**

### **§440.6. Purposes of the task force**

The purposes of the task force shall include the following:

(1) To study and evaluate on an ongoing basis the laws, rules, policies, and processes by which the state implements Medicaid fraud detection and prevention efforts.

(2) To identify and recommend opportunities for improving coordination of Medicaid fraud detection and prevention initiatives across state agencies and branches of state government.

(3) To identify any systemic or systemwide issues of concern within the Medicaid program with respect to fraud, waste, and abuse.

(4) To develop recommendations for policies and procedures by which to facilitate and implement all of the following:

(a) Random sampling of Medicaid cases to be selected for verification of enrollee eligibility.

(b) Improvements in the Medicaid program integrity functions of the Louisiana Department of Health.

(c)(i) Optimization of data mining among state-owned data sets for purposes of Medicaid fraud detection and prevention.

(ii) For purposes of this Subparagraph, "data mining" means the practice of electronically sorting data through statistical modeling, intelligent technologies, and other methods in order to uncover patterns, relationships, and other indicators of actual or potential Medicaid fraud, waste, or abuse.

(5) To make reports to the governor and to the legislature in accordance with R.S. 46:440.7.

Acts 2017, No. 420, §1.

NOTE: See R.S. 46:440.8 regarding termination of Subpart on Aug. 1, 2019.

## **RS 46:440.7**

### §440.7. Reporting

A. On or before January 1, 2018, and semiannually thereafter, the task force shall prepare and submit to the governor and the legislature a report concerning the status of Medicaid fraud detection and prevention initiatives and the status of efforts to coordinate such initiatives across state agencies and branches of state government.

B. At minimum, the report required by this Section shall include information, analysis, and commentary related to each purpose of the task force enumerated in R.S. 46:440.6, and may include any other information as the task force deems necessary or appropriate.

Acts 2017, No. 420, §1.

NOTE: See R.S. 46:440.8 regarding termination of Subpart on Aug. 1, 2019.

## **RS 46:440.8**

### §440.8. Termination

The provisions of this Subpart shall terminate on August 1, 2019.

Acts 2017, No. 420, §1; Acts 2018, No. 294, §1.

NOTE: See R.S. 46:440.8 regarding termination of Subpart on Aug. 1, 2019.