

1 **H. B. 4596**

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3 (By Delegates Shott, McCuskey and Lane)
4 [Introduced February 17, 2014; referred to the
5 Committee on Health and Human Resources then the
6 Judiciary.]
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10 A BILL to amend and reenact §9-7-1 and §9-7-6 of the Code of West
11 Virginia, 1931, as amended, all relating to Medicaid fraud and
12 abuse; and continuing the fraud control unit in the Medicaid
13 Fraud Control Unit of the Attorney General's office after July
14 1, 2015.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §9-7-1 and §9-7-6 of the Code of West Virginia, 1931, as
17 amended, be amended and reenacted, all to read as follows:

18 **ARTICLE 7. FRAUD AND ABUSE IN THE MEDICAID PROGRAM.**

19 **§9-7-1. Legislative purpose and findings; powers and duties of**
20 **fraud control unit.**

21 (a) It is the purpose of the Legislature to continue the
22 Medicaid Fraud Control Unit previously established within the West
23 Virginia Department of Health and Human Resources and to provide it

1 with the responsibility and authority for investigating and
2 controlling fraud and abuse of the medical programs of the State
3 Department of Health and Human Resources which have been
4 established pursuant to section two, article four of this chapter.
5 It is the finding of the Legislature that substantial sums of money
6 have been lost to the state and federal government in the operation
7 of the medical programs of the state due to the overpayment of
8 moneys to medical providers. Such overpayments have been the
9 result of both the abuse of and fraud in the reimbursement process.

10 (b) The Medicaid Fraud Control Unit of the State Department of
11 Health and Human Resources shall, after July 1, 2015, be continued,
12 in the Medicaid Fraud Control Unit of the Attorney General's office
13 and shall have the following powers and duties:

14 (1) The investigation and referral for prosecution of all
15 violations of applicable state and federal laws pertaining to the
16 provision of goods or services under the medical programs of the
17 state including the Medicaid program.

18 (2) The investigation of abuse, neglect or financial
19 exploitation of residents in board and care facilities and patients
20 in health care facilities which receive payments under the medical
21 programs of the state.

22 (3) To cooperate with the federal government in all programs
23 designed to detect and deter fraud and abuse in the medical
24 programs of the state.

1 (4) To employ and train personnel to achieve the purposes of
2 this article and to employ legal counsel, investigators, auditors
3 and clerical support personnel and such other personnel as are
4 deemed necessary from time to time to accomplish the purposes
5 herein.

6 **§9-7-6. Civil remedies.**

7 (a) Any person, firm, corporation or other entity which
8 willfully, by means of a false statement or representation, or by
9 concealment of any material fact, or by other fraudulent scheme,
10 devise or artifice on behalf of himself, herself, itself, or
11 others, obtains or attempts to obtain benefits or payments or
12 allowances under the medical programs of the Department of Health
13 and Human Resources to which he or she or it is not entitled, or,
14 in a greater amount than that to which he or she or it is entitled,
15 shall be liable to the Department of Health and Human Resources in
16 an amount equal to three times the amount of such benefits,
17 payments or allowances to which he or she or it is not entitled,
18 and shall be liable for the payment of reasonable attorney fees and
19 all other fees and costs of litigation.

20 (b) No criminal action or indictment need be brought against
21 any person, firm, corporation or other entity as a condition for
22 establishing civil liability hereunder.

23 (c) A civil action under this section may be prosecuted and
24 maintained on behalf of the Department of Health and Human

1 Resources by the Attorney General and the Attorney General's
2 assistants or, by any attorney in contract with or employed with
3 the Attorney General to provide such representation. If the
4 Attorney General declines to do so, the civil action shall be
5 maintained either by a prosecuting attorney and the prosecuting
6 attorney's assistants or by any attorney in contract with or
7 employed by the Department of Health and Human Resources to provide
8 such representation.

NOTE: The purpose of this bill is add language to West Virginia Code providing for clarity in the representation of cases relating to Medicaid fraud and abuse and continuing the fraud control unit in the Medicaid Fraud Control Unit of the Attorney General's office after July 1, 2015.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.