

## IC 12-15-23

### Chapter 23. Improper Payments

#### IC 12-15-23-1

##### **Reasonable grounds to suspect that provider has received payments to which it is not entitled; certification of evidence to Medicaid fraud control unit; exception**

Sec. 1. Except as provided in section 2 of this chapter, if the administrator of the office determines that there are reasonable grounds to suspect that a provider has received payments that the provider is not entitled to under Medicaid, the administrator shall certify the evidence of the suspected activity to the state Medicaid fraud control unit established under IC 4-6-10.

*As added by P.L.2-1992, SEC.9.*

#### IC 12-15-23-2

##### **Agreement for overpayment to be deducted from subsequent payments; authorization**

Sec. 2. (a) If the office of the secretary of family and social services or administrator of the office determines that a provider has received payments the provider is not entitled to, the administrator may enter into an agreement with the provider stating that the amount of the overpayment shall be deducted from subsequent payments to the provider.

(b) If the office of the secretary of family and social services or the administrator of the office and the provider cannot come to an agreement within sixty (60) days after it is determined that a provider has received payments that the provider is not entitled to, the administrator may recoup the amount of overpayment to the provider claimed by the state from subsequent payments to the provider.

*As added by P.L.2-1992, SEC.9. Amended by P.L.229-2011, SEC.142.*

#### IC 12-15-23-3

##### **Agreements to deduct overpayments from subsequent payments; interest provisions; other provisions**

Sec. 3. An agreement under section 2 of this chapter:

- (1) must include a provision for the collection of any interest due from the provider on the amount of the overpayment; and
- (2) may include any other provisions agreed to by the administrator and the provider.

*As added by P.L.2-1992, SEC.9. Amended by P.L.8-2005, SEC.3.*

#### IC 12-15-23-4

##### **Rules**

Sec. 4. The secretary may adopt rules under IC 4-22-2 that provide procedures for the calculation of overpayments under this chapter.

*As added by P.L.2-1992, SEC.9.*

#### **IC 12-15-23-5**

##### **Discovery of overpayment; time for entering into agreement; certification of facts to Medicaid fraud control unit**

Sec. 5. If the administrator and a provider fail to enter into an agreement not more than sixty (60) days after the administrator's discovery of an overpayment, the administrator shall immediately certify the facts of the case to the Medicaid fraud control unit established under IC 4-6-10.

*As added by P.L.2-1992, SEC.9.*

#### **IC 12-15-23-6**

##### **Determination by Medicaid fraud control unit; certification of facts to prosecuting attorney; reference of matter to attorney general**

Sec. 6. (a) If the state Medicaid fraud control unit determines that an action based on the state Medicaid fraud control unit's investigations under the unit's authority under IC 4-6-10-1.5 is meritorious, the unit shall certify the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed.

(b) The state Medicaid fraud control unit shall assist the prosecuting attorney in prosecuting an action under this section.

(c) A prosecuting attorney to whom facts are certified under subsection (a) may refer the matter to the attorney general.

(d) If a matter has been referred to the attorney general under subsection (c), the attorney general may:

(1) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and

(2) prosecute the alleged offense.

*As added by P.L.2-1992, SEC.9. Amended by P.L.10-1994, SEC.5; P.L.73-2003, SEC.3; P.L.149-2006, SEC.1.*

#### **IC 12-15-23-7**

##### **Action by attorney general; reference to administrator**

Sec. 7. The attorney general may do either of the following:

(1) Bring a civil action upon the facts certified to the attorney general by the state Medicaid fraud control unit.

(2) Refer the matter to the administrator for appropriate action under IC 12-15-22.

*As added by P.L.2-1992, SEC.9.*

#### **IC 12-15-23-8**

##### **Civil action; finding in favor of attorney general; treble damages; civil penalties; reimbursement of investigation costs**

Sec. 8. (a) Subject to subsection (b), if the court finds in favor of the attorney general in a civil action brought by the attorney general under section 7 of this chapter, the court may do the following:

(1) Award damages against the provider of not more than three

(3) times the amount paid to the provider in excess of the

amount that was legally due.

(2) Assess a civil penalty against the provider of not more than five hundred dollars (\$500) for each instance of overpayment found by the court.

(3) Order the provider to reimburse the attorney general for the reasonable costs of the attorney general's investigation and enforcement action.

(4) Take any combination of the actions described in subdivisions (1), (2), and (3).

(b) The court may only take action under subsection (a)(2) and (a)(3) if the provider knew or had reason to know that an item or a service was not provided as claimed.

*As added by P.L.2-1992, SEC.9. Amended by P.L.73-2003, SEC.4.*

### **IC 12-15-23-9**

#### **Meritorious action; money recoverable exceeding cost of action**

Sec. 9. In determining whether an action is meritorious, the attorney general may consider whether the amount of money recoverable under the action would exceed the cost of the action.

*As added by P.L.2-1992, SEC.9.*

### **IC 12-15-23-10**

#### **Action by attorney general; compromise**

Sec. 10. An action brought under section 7 of this chapter may be compromised in the manner prescribed by IC 4-6-2-11.

*As added by P.L.2-1992, SEC.9.*