ENROLLED HOUSE
BILL NO. 2167

By: Staggs of the House

and

Cain of the Senate

An Act relating to poor persons; amending 56 O.S. 1991, Section 1005, as last amended by Section 9 of Enrolled House Bill No. 2019 of the 2nd Session of the 47th Oklahoma Legislature, which relates to Medicaid fraud; modifying penalty; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 56 O.S. 1991, Section 1005, as last amended by Section 9 of Enrolled House Bill No. 2019 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 1005. A. It shall be unlawful ~~and upon conviction thereof, shall be punishable as a misdemeanor~~ for any person to willfully and knowingly:

1. Make or cause to be made a claim, knowing the claim to be false, in whole or in part, by commission or omission;

2. Make or cause to be made a statement or representation for use in obtaining or seeking to obtain authorization to provide a good or a service knowing the statement or representation to be false, in whole or in part, by commission or omission;

3. Make or cause to be made a statement or representation for use by another in obtaining a good or a service under the Oklahoma Medicaid Program, knowing the statement or representation to be false, in whole or in part, by commission or omission;

4. Make or cause to be made a statement or representation for use in qualifying as a provider of a good or a service under the Oklahoma Medicaid Program, knowing the statement or representation to be false, in whole or in part, by commission or omission;

5. Charge any recipient or person acting on behalf of a recipient, money or other consideration in addition to or in excess of rates of remuneration established under the Oklahoma Medicaid Program;

6. Solicit or accept a benefit, pecuniary benefit, or kickback in connection with goods or services paid or claimed by a provider to be payable by the Oklahoma Medicaid Program; or

7. Having submitted a claim for or received payment for a good or a service under the Oklahoma Medicaid Program, fail to maintain or destroy such records as required by law or the rules of the Oklahoma Health Care Authority for a period of at least six (6) years following the date on which payment was received.

B. For the purposes of this section, a person shall be deemed to have made or caused to be made a claim, statement, or representation if the person:

1. Had the authority or responsibility to make the claim, statement, or representation, to supervise those who made the claim, statement, or representation, or to authorize the making of the claim, statement, or representation, whether by operation of law, business or professional practice, or office procedure; and

2. Exercised such authority or responsibility or failed to exercise such authority or responsibility and as a direct or indirect result, the false statement was made.

C. The provisions of this section shall not be construed to prohibit any payment, business arrangement or payment practice not prohibited by 42 U.S.C., Section 1320a-7b(b) or any regulations promulgated pursuant thereto or to prohibit any payment, business arrangement or payment practice not prohibited by Section 1-742 of Title 63 of the Oklahoma Statutes.

D. For the purposes of this section, a person shall be deemed to have known that a claim, statement, or representation was false if the person knew, or by virtue of the person's position, authority or responsibility, had reason to know, of the falsity of the claim, statement or representation.

E. Any employee of the State Department of Health, the Department of Human Services or the Oklahoma Health Care Authority who knowingly or willfully fails to promptly report a violation of the Oklahoma Medicaid Program, subject to the provisions of this section, to the chief administrative officer of such agency or the State Attorney General shall, upon conviction thereof, be guilty of a misdemeanor.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 26th day of May, 2000.

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Speaker of the House of Representatives

Passed the Senate the 26th day of May, 2000.

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President of the Senate