

THE HOUSE OF REPRESENTATIVES
Wednesday, April 1, 2009

ENGROSSED

Senate Bill No. 699

ENGROSSED SENATE BILL NO. 699 - By: CRAIN of the Senate and COX of the House.

An Act relating to the Oklahoma Medicaid False Claims Act; amending Sections 5 and 6, Chapter 137, O.S.L. 2007 (63 O.S. Supp. 2008, Sections 5053.4 and 5053.5), which relate to actions brought by individuals; removing limitation on reduction of certain proceeds; updating statutory reference; removing prohibition of action brought by certain individuals; and providing an effective date.

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

1 SECTION 1. AMENDATORY Section 5, Chapter 137, O.S.L. 2007 (63 O.S.
2 Supp. 2008, Section 5053.4), is amended to read as follows:

3 Section 5053.4 A. 1. If the state proceeds with an action brought by a person
4 under subsection B of Section ~~3~~ 5053.2 of this ~~act~~ title, the person shall, subject to
5 paragraph 2 of this subsection, receive at least fifteen percent (15%) but not more than
6 twenty-five percent (25%) of the proceeds of the action or settlement of the claim,
7 depending upon the extent to which the person substantially contributed to the
8 prosecution of the action.

9 2. Where the action is one which the court finds to be based primarily on
10 disclosures of specific information other than information provided by the person

1 bringing the action relating to allegations or transactions in a criminal, civil, or
2 administrative hearing, in a Congressional, legislative, administrative, or State Auditor
3 and Inspector report, hearing, audit, or investigation, or from the news media, the court
4 may award such sums as it considers appropriate, but in no case more than ten percent
5 (10%) of the proceeds, taking into account the significance of the information and the role
6 of the person bringing the action in advancing the case to litigation.

7 3. Any payment to a person under paragraph 1 or 2 of this subsection shall be made
8 from the proceeds. Any such person shall also receive an amount for reasonable
9 expenses which the court finds to have been necessarily incurred, plus reasonable
10 attorney fees and costs. All such expenses, fees, and costs shall be awarded against the
11 defendant.

12 B. If the state does not proceed with an action under this section, the person
13 bringing the action or settling the claim shall receive an amount which the court decides
14 is reasonable for collecting the civil penalty and damages. The amount shall be not less
15 than twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of
16 the action or settlement and shall be paid out of the proceeds. The person shall also
17 receive an amount for reasonable expenses which the court finds to have been necessarily
18 incurred, plus reasonable attorney fees and costs. All such expenses, fees, and costs shall
19 be awarded against the defendant.

20 C. Whether or not the state proceeds with the action, if the court finds that the
21 action was brought by a person who planned, initiated, or participated in the violation of
22 the Oklahoma Medicaid False Claims Act upon which the action was brought, then the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 court may, to the extent the court considers appropriate, reduce the share of the proceeds
2 of the action which the person would otherwise receive under subsection A or B of this
3 section ~~to no more than ten percent (10%)~~, taking into account the role of that person in
4 advancing the case to litigation and any relevant circumstances pertaining to the
5 violation. If the person bringing the action is convicted of criminal conduct arising from
6 his or her role in the violation of the Oklahoma Medicaid False Claims Act, that person
7 shall be dismissed from the civil action and shall not receive any share of the proceeds of
8 the action. The dismissal shall not prejudice the right of this state to continue the action,
9 represented by the Office of the Attorney General or its assigns.

10 D. ~~The court shall reduce the share of the proceeds of the action which the person~~
11 ~~would otherwise receive to no more than ten percent (10%) of the proceeds of the action~~
12 ~~if:~~

13 ~~1. An action brought under subsection B of Section 3 of this act is based upon~~
14 ~~allegations or transactions of which the person bringing the action became aware while~~
15 ~~employed by, or under contract to, or serving as an agent for a defendant; and~~

16 ~~2. The person bringing the action failed to make an effective disclosure of those~~
17 ~~allegations or transactions under the corporate compliance plan of that defendant.~~

18 E. If the state does not proceed with the action and the person bringing the action
19 conducts the action, the court may award to the defendant its reasonable attorney fees
20 and expenses if the defendant prevails in the action and the court finds that the claim of
21 the person bringing the action was clearly frivolous, clearly vexatious, or brought
22 primarily for purposes of harassment.

1 SECTION 2. AMENDATORY Section 6, Chapter 137, O.S.L. 2007 (63 O.S.
2 Supp. 2008, Section 5053.5), is amended to read as follows:

3 Section 5053.5 A. In no event may a person bring an action under subsection B of
4 Section ~~3~~ 5053.2 of this act ~~title~~ which is based upon allegations or transactions which
5 are the subject of a civil suit or an administrative civil money penalty proceeding in
6 which the state is already a party.

7 B. No court shall have jurisdiction over an action under this section based upon the
8 public disclosure of allegations or transactions in a criminal, civil, or administrative
9 hearing, in a Congressional, legislative, administrative, or State Auditor and Inspector
10 report, hearing, audit, or investigation, or from the news media, unless the action is
11 brought by the Attorney General or the person bringing the action is an original source of
12 the information. For purposes of this subsection, "original source" means an individual
13 who has direct and independent knowledge of the information on which the allegations
14 are based and has voluntarily provided the information to the state before filing an
15 action under this section which is based on the information.

16 C. ~~In no event may a person bring an action under subsection B of Section 3 of this~~
17 ~~act that is based on allegations or transactions that the person knew or had reason to~~
18 ~~know were known to the Attorney General or the other law enforcement officials of the~~
19 ~~state prior to that person filing the action or serving the disclosure of the material~~
20 ~~evidence.~~

21 ~~D.~~ The state is not liable for expenses which a person incurs in bringing an action
22 under this section.

1 ~~E. D.~~ In civil actions brought under this section by this state, the provisions of Title
2 28 of the Oklahoma Statutes shall apply.

3 ~~F. E.~~ Any employee who is discharged, demoted, suspended, threatened, harassed,
4 or in any other manner discriminated against in the terms and conditions of employment
5 by his or her employer because of lawful acts done by the employee on behalf of the
6 employee or others in furtherance of an action under this act, including investigation for,
7 initiation of, testimony for, or assistance in an action filed or to be filed, shall be entitled
8 to all relief necessary to make the employee whole. Such relief shall include
9 reinstatement with the same seniority status such employee would have had but for the
10 discrimination, two times the amount of back pay, interest on the back pay, and
11 compensation for any special damages sustained as a result of the discrimination,
12 including litigation costs and reasonable attorney fees. An employee may bring an action
13 in the appropriate district court of the State of Oklahoma for the relief provided in this
14 subsection.

15 SECTION 3. This act shall become effective November 1, 2009.

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-31-09 - DO PASS.