

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 2173

By: Sears and Martin (Scott) of
the House

4 and

5 Myers and Jolley of the
6 Senate

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9 AS INTRODUCED

10 An Act relating to the Office of the Attorney
11 General; Amending 56 O.S. 2001, Section 1003, which
relates to the Medicaid Fraud Control Unit;
12 authorizing the Attorney General to recover certain
funds wrongfully paid by the Oklahoma Health Care
13 Authority; specifying how recovered funds shall be
deposited; limiting balance in revolving fund to
14 certain percentage of current-year budget; requiring
certain percentages of excess funds to be deposited
15 in certain revolving funds; creating the Attorney
General's Medicaid Fraud Revolving Fund; specifying
16 type of fund; appropriating monies credited to the
fund for certain activities; providing for the
17 expenditure of funds; providing an effective date;
and declaring an emergency.

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

21 SECTION 1. AMENDATORY 56 O.S. 2001, Section 1003, is
22 amended to read as follows:

23 Section 1003. A. There is hereby created within the Office of
24 the Attorney General, a Medicaid fraud control unit.

1 B. The Medicaid fraud control unit shall be the state entity to
2 which all cases of suspected Medicaid fraud shall be referred by the
3 Oklahoma Health Care Authority or its fiscal agents for the purposes
4 of investigation, civil action, criminal action or referral to the
5 district attorney. Provided however, nothing contained in the
6 Oklahoma Medicaid Program Integrity Act shall prohibit the Oklahoma
7 Health Care Authority from investigating or additionally referring
8 to other proper law enforcement agencies cases of suspected Medicaid
9 fraud.

10 C. 1. In carrying out these responsibilities, the Attorney
11 General shall have all the powers necessary to comply with federal
12 laws and regulations relative to the operation of a Medicaid fraud
13 unit, the power to cross-designate assistant United States attorneys
14 as assistant attorneys general, the power to investigate cases of
15 patient abuse, the power to issue or cause to be issued subpoenas or
16 other process in aid of investigations and prosecutions, the power
17 to administer oaths and take sworn statements under penalty of
18 perjury, the power to serve and execute in any county, search
19 warrants which relate to investigations authorized by the Oklahoma
20 Medicaid Program Integrity Act and shall have all the powers of a
21 district attorney.

22 2. Subpoenas ad testificandum or duces tecum issued pursuant to
23 the Oklahoma Medicaid Program Integrity Act may be served by the
24 Attorney General, any peace officer, or any competent person over

1 | eighteen (18) years of age, and may require attendance or production
2 | at any place in this state. A refusal to obey such subpoena, or
3 | willful failure to appear, be sworn, testify, or produce records at
4 | the place and time specified shall constitute contempt and shall be
5 | enforced by the district court of the county where issued or the
6 | county where served, at the election of the Attorney General, as if
7 | it was a contempt on that court.

8 | D. The Attorney General shall have authority to collect all
9 | fines, penalties, amounts of restitution, or interest accruing on
10 | any amount of restitution to be made and any penalties to be paid
11 | from and after default in the payment thereof levied pursuant to the
12 | provisions of the Oklahoma Medicaid Program Integrity Act, the
13 | Oklahoma Medicaid False Claims Act, or any other charge, cause of
14 | action, pre-litigation settlement or other settlement which recovers
15 | money wrongfully paid by the Oklahoma Health Care Authority on a
16 | claim submitted to the Oklahoma Health Care Authority. However,
17 | this subsection is not in any way intended to affect the contempt
18 | power of any court. Funds collected by the Attorney General
19 | pursuant to this section shall be deposited as follows:

20 | 1. Restitution recovered and interest thereon shall be
21 | returned to the Oklahoma Health Care Authority for deposit to the
22 | Oklahoma Health Care Authority Medicaid Program Fund created
23 | pursuant to Section 5020 of Title 63 of the Oklahoma Statutes.
24 |

1 2. Costs of investigation, litigation, attorney fees, and
2 other expenses shall be retained by the Office of the Attorney
3 General and shall be deposited in the Attorney General's Medicaid
4 Fraud Revolving Fund created pursuant to subsection E of this
5 section.

6 3. Fines and penalties and other funds recovered and interest
7 thereon shall be deposited in the Attorney General's Medicaid Fraud
8 Revolving Fund; provided, the balance in the Attorney General's
9 Medicaid Fraud Revolving Fund shall not exceed an amount equal to
10 fifty percent (50%) of the current-year budget for operating costs
11 of the Medicaid Fraud Control Unit. Any funds exceeding that amount
12 shall be deposited as follows:

13 a. seventy-five percent (75%) to the General Revenue
14 Fund, and

15 b. twenty-five percent (25%) to the Attorney General's
16 Evidence Fund created pursuant to Section 19 of Title
17 74 of the Oklahoma Statutes.

18 E. There is hereby created in the State Treasury a revolving
19 fund for the Office of the Attorney General, to be designated the
20 "Attorney General's Medicaid Fraud Revolving Fund." The fund shall
21 be a continuing fund, not subject to fiscal year limitations, and
22 shall consist of any monies designated to the fund by law. All
23 monies accruing to the credit of said fund are hereby appropriated
24 and may be budgeted and expended by the Attorney General for

1 activities related to the Medicaid Fraud Control Unit. Expenditures
2 from said fund shall be made upon warrants issued by the State
3 Treasurer against claims filed as prescribed by law with the
4 Director of State Finance for approval and payment.

5 SECTION 2. This act shall become effective July 1, 2011.

6 SECTION 3. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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