



Ohio Revised Code

Section 5164.35 Provider offenses.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) As used in this section, "owner" means any person having at least five per cent ownership in a medicaid provider.

(B)(1) No medicaid provider shall do any of the following:

(a) By deception, obtain or attempt to obtain payments under the medicaid program to which the provider is not entitled pursuant to the provider's provider agreement, or the rules of the federal government or the medicaid director relating to the program;

(b) Willfully receive payments to which the provider is not entitled;

(c) Willfully receive payments in a greater amount than that to which the provider is entitled;

(d) Falsify any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments.

(2) A medicaid provider engages in "deception" for the purpose of this section when the provider, acting with actual knowledge of the representation or information involved, acting in deliberate ignorance of the truth or falsity of the representation or information involved, or acting in reckless disregard of the truth or falsity of the representation or information involved, deceives another or causes another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact. No proof of specific intent to defraud is required to show, for purposes of this section, that a medicaid provider has engaged in deception.

(C) Any medicaid provider who violates division (B) of this section shall be liable, in addition to



any other penalties provided by law, for all of the following civil penalties:

- (1) Payment of interest on the amount of the excess payments at the maximum interest rate allowable for real estate mortgages under section 1343.01 of the Revised Code on the date the payment was made to the provider for the period from the date upon which payment was made, to the date upon which repayment is made to the state;
- (2) Payment of an amount equal to three times the amount of any excess payments;
- (3) Payment of a sum of not less than five thousand dollars and not more than ten thousand dollars for each deceptive claim or falsification;
- (4) All reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.

(D) In addition to the civil penalties provided in division (C) of this section, the medicaid director, upon the conviction of, or the entry of a judgment in either a criminal or civil action against, a medicaid provider or its owner, officer, authorized agent, associate, manager, or employee in an action brought pursuant to section 109.85 of the Revised Code, shall terminate the provider's provider agreement and stop payment to the provider for medicaid services rendered from the date of conviction or entry of judgment. No such medicaid provider, owner, officer, authorized agent, associate, manager, or employee shall own or provide medicaid services to any other medicaid provider or risk contractor or arrange for, render, or order medicaid services for medicaid recipients, nor shall such provider, owner, officer, authorized agent, associate, manager, or employee receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor. The provider agreement shall not be terminated, and payment shall not be terminated, if the medicaid provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to section 109.85 of the Revised Code. Nothing in this division prohibits any owner, officer, authorized agent, associate, manager, or employee of a medicaid provider from entering into a provider agreement if the person can demonstrate that the person had no knowledge



of an action of the medicaid provider the person was formerly associated with that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to section 109.85 of the Revised Code.

Nursing facility and ICF/IID providers whose provider agreements are terminated pursuant to this section may continue to receive medicaid payments for up to thirty days after the effective date of the termination if the provider makes reasonable efforts to transfer medicaid recipients to another facility or to alternate care and if federal financial participation is provided for the payments.

(E) The attorney general on behalf of the state may commence proceedings to enforce this section in any court of competent jurisdiction; and the attorney general may settle or compromise any case brought under this section with the approval of the department of medicaid. Notwithstanding any other provision of law providing a shorter period of limitations, the attorney general may commence a proceeding to enforce this section at any time within six years after the conduct in violation of this section terminates.

(F) All moneys collected by the state pursuant to this section shall be deposited in the state treasury to the credit of the general revenue fund.