

Alaska

AS § 09.58.010

§ 09.58.010. False claims for medical assistance; civil penalty

(a) A medical assistance provider or medical assistance recipient may not

(1) knowingly submit, authorize, or cause to be submitted to an officer or employee of the state a false or fraudulent claim for payment or approval under the medical assistance program;

(2) knowingly make, use, or cause to be made or used, directly or indirectly, a false record or statement to get a false or fraudulent claim for payment paid or approved by the state under the medical assistance program;

(3) conspire to defraud the state by getting a false or fraudulent claim paid or approved under the medical assistance program;

(4) knowingly make, use, or cause to be made or used, a false record or statement to conceal, avoid, increase, or decrease an obligation to pay or transmit money or property to the medical assistance program;

(5) knowingly enter into an agreement, contract, or understanding with an officer or employee of the state for approval or payment of a claim under the medical assistance program knowing that the information in the agreement, contract, or understanding is false or fraudulent.

(b) A beneficiary of an intentional or inadvertent submission of a false or fraudulent claim under the medical assistance program who later discovers the claim is false or fraudulent shall disclose the false or fraudulent claim to the state not later than 60 days after discovering the false claim.

(c) In addition to any criminal penalties under AS 47.05, a medical assistance provider or medical assistance recipient who violates (a) or (b) of this section shall be liable to the state in a civil action for

(1) a civil penalty of not less than \$5,500 and not more than \$11,000;

(2) three times the amount of actual damages sustained by the state;

(3) full reasonable attorney fees and costs in a case involving a fraudulent claim, agreement, contract, or understanding; and

(4) reasonable attorney fees and costs calculated under applicable court rules in a case that does not involve a fraudulent claim, agreement, contract, or understanding.

(d) Liability for actual damages under (c) of this section may be reduced to not less than twice the amount of actual damages that the state sustains if the court finds that a person liable for an act under (a) or (b) of this section

- (1) furnished the attorney general or the Department of Health and Social Services with all information known to the person about the violation not later than 30 days after the date the information was obtained;

 - (2) fully cooperated with the investigation of the violation under AS 09.58.020;

 - (3) at the time the person furnished the attorney general with the information about the violation, no criminal prosecution, civil action, investigation, or administrative action had been started in this state with respect to the violation, and the person did not have actual knowledge of the existence of an investigation of the violation.
- (e) A corporation, partnership, or other individual is liable under this section for acts of its agents if the agent acted with apparent authority, regardless of whether the agent acted, in whole or in part, to benefit the principal and regardless of whether the principal adopted or ratified the agent's claims, representations, statement, or other action or conduct.
- <Text of subsec. (f) effective upon certification. See, Historical and Statutory notes for certification.>
- (f) Notwithstanding (e) of this section, a corporation, partnership, or other individual is not liable under this section for acts of its agents if the evidence shows that the agent or apparent agent acted with intent to deceive the principal.

AS § 09.58.015

§ 09.58.015. Attorney general investigation; civil action

(a) The attorney general or the Department of Health and Social Services may investigate an alleged violation of AS 09.58.010. The attorney general may request assistance from the Department of Health and Social Services in an investigation under this section.

(b) The attorney general may bring a civil action in superior court under AS 09.58.010--09.58.025.

AS § 09.58.025

§ 09.58.025. Subpoenas

In conducting an investigation under AS 09.58.015, the attorney general may issue subpoenas to compel the production of books, papers, correspondence, memoranda, and other records in connection with an investigation under or the administration of AS 09.58.010--09.58.025. If a medical assistance provider or a medical assistance recipient fails or refuses, without just cause, to obey a subpoena issued under this section, the superior court may, upon application by the attorney general, issue an order requiring the medical assistance provider or medical assistance recipient to appear before the attorney general to produce evidence.

AS § 09.58.070

§ 09.58.070. Employee protection for retaliation

(a) An employee of a medical assistance provider who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment by the employee's employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this chapter, including investigation for, initiation of, testimony for or assistance in an action filed or to be filed under this chapter, is entitled to the same relief authorized under AS 39.90.120.

(b) Notwithstanding (a) of this section, a state employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment because of lawful acts done by the employee on behalf of the employee or in furtherance of an action under AS 09.58.010--09.58.060, including investigation, initiation of, testimony for or assistance in an action filed or to be filed under AS 09.58.010--09.58.060, is entitled to relief under AS 39.90.100--39.90.150 (Alaska Whistleblower Act).

(c) A person may not bring an action under this section unless the action is commenced not later than three years after the date the employee was subject to retaliation under (a) or (b) of this section.

AS § 09.58.080

§ 09.58.080. Regulations

The attorney general may adopt regulations under AS 44.62 as necessary to carry out the purposes of this chapter.

AS § 09.58.090

§ 09.58.090. Special provisions

- (a) This chapter does not apply to any controversy involving damages to the state of less than \$5,500 in value.
- (b) No punitive damages may be awarded in an action brought under AS 09.58.010--09.58.025.

AS § 09.58.100

§ 09.58.100. Definitions

In this chapter,

- (1) “attorney general” includes a designee of the attorney general;

- (2) “claim” means a request for payment of health care services or equipment, whether made to a contractor, grantee, or other person, when the state provides, directly or indirectly, a portion of the money, property, or services requested or demanded, or when the state will, directly or indirectly, reimburse the contractor, grantee, or other recipient for a portion of the money, property, or services requested or demanded;

- (3) “controversy” means the aggregate of one or more false claims submitted by the same medical assistance provider or medical assistance recipient under this chapter;

- (4) “knowingly” means that a person, with or without specific intent to defraud,
 - (A) has actual knowledge of the information;

 - (B) acts in deliberate ignorance of the truth or falsity of the information; or

 - (C) acts in reckless disregard of the truth or falsity of the information;

- (5) “medical assistance program” means the federal-state program administered by the Department of Health and Social Services under AS 47.05 and AS 47.07 and regulations adopted under AS 47.05 and AS 47.07;

- (6) “medical assistance provider” has the meaning given in AS 47.05.290;

- (7) “medical assistance recipient” has the meaning given in AS 47.05.290;

- (8) “obligation” means an established duty, whether or not fixed, arising from
 - (A) an express or implied contractual grantor or grantee or licensor or licensee relationship;

 - (B) a fee-based or similar relationship;

 - (C) a statute or regulation; or

 - (D) the retention of any overpayment.

AS § 09.58.110

§ 09.58.110. Short title

This chapter may be cited as the Alaska Medical Assistance False Claim and Reporting Act.