

By: Krause

H.B. No. 3082

A BILL TO BE ENTITLED

AN ACT

relating to Medicaid fraud actions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 36, Human Resources Code, is amended by adding Section 36.0025 to read as follows:

Sec. 36.0025. MATERIALITY REQUIREMENT FOR UNLAWFUL ACTS.

To be actionable under this chapter, an unlawful act under Section 36.002 must be material to the state's decision regarding payment under the Medicaid program.

SECTION 2. Section 36.052, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) Except as provided by Subsection (c), a person who commits an unlawful act is liable to the state for:

(1) the damages resulting from ~~[amount of]~~ any payment or ~~[the value of any]~~ monetary or in-kind benefit provided under the Medicaid program, directly or indirectly, as a result of the unlawful act, including any payment made to a third party;

(2) interest on the amount of the payment or the value of the benefit described by Subdivision (1) at the prejudgment interest rate in effect on the day the payment or benefit was received or paid, for the period from the date the benefit was received or paid to the date that the state recovers damages ~~[the amount of the payment or value of the benefit]~~;

1 (3) a civil penalty of:

2 (A) not less than \$5,500 or the minimum amount
3 imposed as provided by 31 U.S.C. Section 3729(a), if that amount
4 exceeds \$5,500, and not more than \$15,000 or the maximum amount
5 imposed as provided by 31 U.S.C. Section 3729(a), if that amount
6 exceeds \$15,000, for each unlawful act committed by the person that
7 results in injury to an elderly person, as defined by Section
8 48.002(a)(1), a person with a disability, as defined by Section
9 48.002(a)(8)(A), or a person younger than 18 years of age; or

10 (B) not less than \$5,500 or the minimum amount
11 imposed as provided by 31 U.S.C. Section 3729(a), if that amount
12 exceeds \$5,500, and not more than \$11,000 or the maximum amount
13 imposed as provided by 31 U.S.C. Section 3729(a), if that amount
14 exceeds \$11,000, for each unlawful act committed by the person that
15 does not result in injury to a person described by Paragraph (A);
16 and

17 (4) two times the amount of the damages [~~payment or the~~
18 ~~value of the benefit~~] described by Subdivision (1).

19 (f) Chapter 33, Civil Practice and Remedies Code, applies to
20 an action brought under this section.

21 SECTION 3. Subchapter B, Chapter 36, Human Resources Code,
22 is amended by adding Section 36.056 to read as follows:

23 Sec. 36.056. LIMITATIONS PERIOD. The attorney general may
24 not bring an action under this subchapter after the later of:

25 (1) the sixth anniversary of the date the unlawful act
26 was committed; or

27 (2) the third anniversary of the date when facts

1 material to the right of action are known or reasonably should have
2 been known by the person charged with responsibility to act in the
3 circumstances, except in no event may the action be brought later
4 than the 10th anniversary of the date the unlawful act was
5 committed.

6 SECTION 4. The changes in law made by this Act apply only to
7 an action commenced on or after the effective date of this Act. An
8 action commenced before the effective date of this Act is governed
9 by the law as it existed immediately before the effective date of
10 this Act, and that law is continued in effect for that purpose.

11 SECTION 5. This Act takes effect September 1, 2021.