

SOUTH CAROLINA LAW

South Carolina law provides that it is unlawful to make a false claim, statement or representation to obtain payment from the South Carolina Medicaid program.

South Carolina Code section 43-7-60, subsection (B), states:

(B) It is unlawful for a provider of medical assistance, goods, or services to knowingly and wilfully make or cause to be made a false claim, statement, or representation of a material fact:

(1) in an application or request, including an electronic or computer generated claim, for a benefit, payment, or reimbursement from a state or federal agency which administers or assists in the administration of the state's medical assistance or Medicaid program; or

(2) on a report, certificate, or similar document, including an electronic or computer generated claim, submitted to a state or federal agency which administers or assists in the administration of the state's Medicaid program in order for a provider or facility to qualify or remain qualified under the state's Medicaid program to provide assistance, goods, or services, or receive reimbursement, payment, or benefit for this assistance, goods, or services.

For purposes of this subsection, each false claim, representation, or statement constitutes a separate offense.

“Provider” includes a person who provides goods or services and who is entitled or claims to be entitled to receive reimbursement or payment under the state’s Medicaid program. It also includes a person acting as an employee, representative or agent of the provider.

A person who violates the provisions of this section is guilty of medical assistance provider fraud, a Class A misdemeanor. Upon conviction, such person must be imprisoned not more than three years and fined not more than \$1,000 for each offense.

Subsection (E) of section 43-7-60 states:

In addition to all other remedies provided by law, the Attorney General may bring an action to recover damages equal to three times the amount of an overstatement or overpayment and the court may impose a civil penalty of two thousand dollars for each false claim, representation, or overstatement made to a state or federal agency which administers funds under the state's Medicaid program. Upon a finding that the provider has violated a provision

of this section, the state agency which administers the Medicaid program may impose other administrative sanctions against the provider authorized by law. A civil or criminal action brought under this section may be filed or brought in either the county where the false claim, statement, or representation originated or in the county in which the false claim, statement, or representation was received by the Health and Human Services Finance Commission or other agency of the State responsible for administering the state's Medicaid Program.

At the time VistaCare's False Claims Policy was adopted, South Carolina had not enacted its own legislation similar to the Federal False Claims Act allowing private citizens or employees to file civil lawsuits to recover monetary damages against individuals and entities that submit false or fraudulent claims to the state Medicaid program.

South Carolina has not enacted legislation prohibiting employers from taking disciplinary or retaliatory action against an employee who makes a lawful report of a violation of state or federal statutes. However, VistaCare's False Claims Policy requires all employees, contractors and agents with knowledge of potential fraud and abuse situations to report them, and prohibits retaliation or retribution for good faith reporting.

References:

False Medicaid claims: S.C. Code Ann. § 43-7-60