

## STATE OF OHIO

### 5111.03 Provider offenses.

(A) No provider of services or goods contracting with the department of job and family services pursuant to the medicaid program shall, by deception, obtain or attempt to obtain payments under this chapter to which the provider is not entitled pursuant to the provider agreement, or the rules of the federal government or the department of job and family services relating to the program. No provider shall willfully receive payments to which the provider is not entitled, or willfully receive payments in a greater amount than that to which the provider is entitled; nor shall any provider falsify any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments. As used in this section, a provider engages in "deception" 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 provider has engaged in deception.

(B) Any provider who violates division (A) 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.

(C) As used in this division, "intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings given in section [5111.20](#) of the Revised Code.

In addition to the civil penalties provided in division (B) of this section, the director of job and family services, 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 agreement between the department and the provider and stop reimbursement to the provider for services rendered from the date of conviction or entry of judgment. As used in this division, "owner" means any person having at least five per cent ownership in the medicaid provider. No such provider, owner, officer, authorized agent, associate, manager, or employee shall own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients, nor shall such provider, owner, officer, authorized agent, associate, manager, or employee receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor. The provider agreement shall not be terminated or reimbursement terminated if the 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 medicaid 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 or intermediate care facility for the mentally retarded providers whose agreements are terminated pursuant to this section may continue to receive reimbursement for up to thirty days after the effective date of the termination if the provider makes reasonable efforts to transfer recipients to another facility or to alternate care and if federal funds are provided for such reimbursement.

(D) For any reason permitted or required by federal law, the director of job and family services may deny a provider agreement or terminate a provider agreement.

For any reason permitted or required by federal law, the director may exclude an individual, provider of services or goods, or other entity from participation in the medicaid program. No individual, provider, or entity excluded under this division shall own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of exclusion, nor, during the period of exclusion, shall such individual, provider, or entity receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor. An excluded individual, provider, or entity may request a reconsideration of the exclusion. The director shall adopt rules in accordance with Chapter 119. of the Revised Code governing the process for requesting a reconsideration.

Nothing in this division limits the applicability of section [5111.06](#) of the Revised Code to a medicaid provider.

(E) Any provider of services or goods contracting with the department of job and family services pursuant to Title XIX of the "Social Security Act," who, without intent, obtains payments under this chapter in excess of the amount to which the provider is entitled, thereby becomes liable for payment of interest on the amount of the excess payments at the maximum real estate mortgage rate 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.

(F) 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 job and family services. 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.

(G) The authority, under state and federal law, of the department of job and family services or a county department of job and family services to recover excess payments made to a provider is not limited by the availability of remedies under sections [5111.11](#) and [5111.12](#) of the Revised Code for recovering benefits paid on behalf of recipients of medical assistance.

The penalties under this chapter apply to any overpayment, billing, or falsification occurring on and after April 24, 1978. 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.

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