



Maryland Chamber of Commerce

Legislative Position

**SB 187
OPPOSE**

**Judicial
Proceedings
& Finance
Committees
2/23/10**

SB 187

Maryland False Claims Act

Bill Summary: This bill would establish additional penalties for the filing of a false claim for state or local government benefits and contracts. The bill would also authorize a person to file suit on behalf of the state or local government for an alleged false claim and recover up to 30 percent of the proceeds of the suit, plus attorney's fees and costs.

Chamber Position: The Maryland Chamber of Commerce opposes this bill because it is an inefficient means of enforcing fraud statutes and will add duplicative new layers of penalties for offenses that are already illegal under existing state and federal law. While we support vigorous enforcement of the law against persons attempting to defraud the state, we do not endorse creating a new private cause of action at the state level for individuals to pursue these claims.

It is the state's job to enforce state law. The fiscal note points out that existing state law provides for the collection of triple damages for persons attempting to defraud the state, with felony sanctions and imprisonment for egregious cases. These state laws are supplemented by the federal False Claims Act that already provides an avenue for a private citizen to file suit on behalf of the federal government for alleged false health claims and receive a share of recoveries. Duplicating the federal law at the state level will increase the number of lawsuits without assuring any increase in fraud recoveries.

For the past 30 years the state has effectively enforced the fraud statutes through the Medicaid Fraud Control Unit of the Office of the Attorney General. The Governor's fiscal year 2011 budget detail (attached) shows that this unit is a good investment and more than pays its way with fraud collections. Fraud recoveries exceeded \$21 million in FY 2009.

We fully support enhanced state funding for the Medicaid Fraud Control Unit if the Attorney General needs additional assistance to enforce state laws. However, there is no reason create a new cause of action for private citizens at the state level to pursue these claims.

For these reasons, we urge an unfavorable report for this bill.

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OFFICE OF THE ATTORNEY GENERAL

C81C00.09 MEDICAID FRAUD CONTROL UNIT

MISSION

The Maryland Medicaid Fraud Control Unit (MFCU) of the Office of the Attorney General investigates and prosecutes instances of Medicaid provider fraud and the abuse and neglect of vulnerable adults. The MFCU has statewide authority to prosecute such cases and utilizes the grand juries of the various counties to this end. The MFCU serves the people of Maryland through the enforcement actions it undertakes. The MFCU seeks to deter the criminal behavior that comes under its purview by bringing enforcement actions, seeking restitution where appropriate, and by seeking appropriate sentences for those individuals or entities that violate the laws pertaining to fraud and abuse and neglect. The MFCU also advises the Attorney General and his constituents, as well as the Medicaid program, on Medicaid fraud matters and policy issues surrounding the abuse and neglect of vulnerable adults.

VISION

The vision of the MFCU is to effectively protect the integrity of the Medicaid program in Maryland and to reduce or eliminate instances of fraud. It is further our vision that all vulnerable adults in Maryland be treated with the dignity and respect they deserve, free from physical abuse. It is further our vision that vulnerable adults in Maryland receive proper and sufficient care and assistance in fulfilling their physical needs.

KEY GOALS, OBJECTIVES, AND PERFORMANCE MEASURES

Goal 1. Handle all Medicaid Fraud Control Unit matters.

Objective 1.1 Handle all MFCU matters to protect the integrity of the Medicaid program and to help protect vulnerable adults.

	2008	2009	2010	2011
Performance Measures	Actual	Actual	Estimated	Estimated
Input: Cases pending beginning of year ¹	112	66	90	90
New cases	28	31	30	30
Total	140	97	120	120
Fraud complaints	36	36	35	35
Patient abuse complaints ²	537	472	500	500
Output: Investigations completed ³	159	92	150	150
Pending end of fiscal year ¹	88	73	95	95
Indictments	15	7	20	20
Civil settlements	11	5	6	6
Outcome: Fines, collections, restitution and/or overpayments (\$)	11,075,729	21,632,585 ⁴	4,000,000	4,000,000

Goal 2. Protect vulnerable adults residing in Medicaid-funded facilities and assisted living facilities from abuse and neglect.

Objective 2.1 Educate care providers on how to prevent abuse and neglect, how to recognize abuse and neglect, and what to do when abuse or neglect occurs in a Medicaid-funded facility or assisted living facility

	2008	2009	2010	2011
Performance Measures	Actual	Actual	Estimated	Estimated
Training sessions provided to long-term care facilities, provider organizations, law enforcement, and State agencies	61	64	68	68

¹ This total now includes open cases and cases undergoing a preliminary investigation.

² This total includes all abuse and neglect complaints received regardless of merit.

³ This total now includes opened cases resolved with or without a conviction or settlement and preliminary investigations resolved without a case being opened.

⁴ The MFCU had three very large global settlements which attributed to the increase from the prior year.