

Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 144

HOUSE BILL 2445

AN ACT

AMENDING SECTION 36-2918, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-2918, Arizona Revised Statutes, is amended to
3 read:

4 36-2918. Prohibited acts; penalties; subpoena power

5 A. A person may not present or cause to be presented to this state or
6 to a contractor:

7 1. A claim for a medical or other item or service that the person
8 knows or has reason to know was not provided as claimed.

9 2. A claim for a medical or other item or service that the person
10 knows or has reason to know is false or fraudulent.

11 3. A claim for payment that the person knows or has reason to know may
12 not be made by the system because:

13 (a) The person was terminated or suspended from participation in the
14 program on the date for which the claim is being made.

15 (b) The item or service claimed is substantially in excess of the
16 needs of the individual or of a quality that fails to meet professionally
17 recognized standards of health care.

18 (c) The patient was not a member on the date for which the claim is
19 being made.

20 4. A claim for a physician's service or an item or service incidental
21 to a physician's service, by a person who knows or has reason to know that
22 the individual who furnished or supervised the furnishing of the service:

23 (a) Was not licensed as a physician.

24 (b) Obtained the license through a misrepresentation of material fact.

25 (c) Represented to the patient at the time the service was furnished
26 that the physician was certified in a medical specialty by a medical
27 specialty board if the individual was not certified.

28 5. A request for payment that the person knows or has reason to know
29 is in violation of an agreement between the person and this state or the
30 administration.

31 B. A person who violates a provision of subsection A OF THIS SECTION
32 is subject, in addition to any other penalties that may be prescribed by
33 federal or state law, to a civil penalty of not to exceed two thousand
34 dollars for each item or service claimed and is subject to an assessment of
35 not to exceed twice the amount claimed for each item or service.

36 C. The director or the director's designee shall make the
37 determination to assess civil penalties and is responsible for the collection
38 of penalty and assessment amounts. The director shall adopt rules that
39 prescribe procedures for the determination and collection of civil penalties
40 and assessments. Civil penalties and assessments imposed under this section
41 may be compromised by the director or the director's designee in accordance
42 with criteria established in rules. The director or director's designee may
43 make this determination in the same proceeding to exclude the person from
44 system participation.

1 D. A person WHO IS adversely affected by a determination of the
2 director or the director's designee under this section may appeal that
3 decision in accordance with provider grievance provisions set forth in
4 rule. The final decision is subject to judicial review in accordance with
5 title 12, chapter 7, article 6.

6 E. Amounts recovered under this section shall be deposited in the
7 state general fund. The amount of such penalty or assessment may be deducted
8 from any amount then or later owing by the administration or this state to
9 the person against whom the penalty or assessment has been imposed.

10 F. If a civil penalty or assessment imposed pursuant to subsection C
11 OF THIS SECTION is not paid, this state or the administration shall file an
12 action to collect the civil penalty or assessment in the superior court in
13 Maricopa county. Matters that were raised or could have been raised in a
14 hearing before the director or in an appeal pursuant to title 12, chapter 7,
15 article 6 may not be raised as a defense to the civil action. An action
16 brought pursuant to this subsection shall be initiated within six years after
17 the date the claim was presented, EXCEPT THAT THE TIME TO FILE A COLLECTION
18 ACTION IS TOLLED EITHER:

19 1. AFTER ANY ADMINISTRATIVE ACTION ARISING OUT OF OR REFERENCING THE
20 WRONGFUL ACTS IS COMMENCED AND UNTIL THE ACTION'S FINAL RESOLUTION, INCLUDING
21 ANY LEGAL CHALLENGES TO THE ACTION.

22 2. WHILE THE STATE AND THE ADMINISTRATION DID NOT KNOW, AND WITH THE
23 EXERCISE OF REASONABLE DILIGENCE, SHOULD NOT HAVE KNOWN, THAT A CLAIM WAS
24 FALSE, FRAUDULENT OR NOT PROVIDED AS CLAIMED.

25 G. Pursuant to an investigation of prohibited acts or fraud and abuse
26 involving the system, the director, and any person designated by the director
27 in writing, may examine any person under oath and issue a subpoena to any
28 person to compel the attendance of a witness. The administration by subpoena
29 may compel the production of any record in any form necessary to support an
30 investigation or an audit. The administration shall serve the subpoenas in
31 the same manner as subpoenas in a civil action. If the subpoenaed person
32 does not appear or does not produce the record, the director or the
33 director's designee by affidavit may apply to the superior court in the
34 county in which the controversy occurred and the court in that county shall
35 proceed as though the failure to comply with the subpoena had occurred in an
36 action in the court in that county.

37 Sec. 2. Applicability

38 Section 36-2918, Arizona Revised Statutes, as amended by this act,
39 applies to any action in which a court has not entered a final judgment
40 before the effective date of this act.

~~APPROVED BY THE GOVERNOR APRIL 29, 2013.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2013.~~

Passed the House February 28, 2013

Passed the Senate April 17, 2013

by the following vote: 56 Ayes,

by the following vote: 27 Ayes,

0 Nays, 4 Not Voting

1 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

~~This Bill received by the Governor this
_____ day of _____, 20____
at _____ o'clock _____ M.

Secretary to the Governor~~

Approved this _____ day of _____

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

~~This Bill received by the Secretary of State
this _____ day of _____, 20____
at _____ o'clock _____ M.

Secretary of State~~

H.B. 2445

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 23, 2013,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

25 day of April, 2013,

at 3:30 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 29th day of

April, 2013,

at 3:19 o'clock P M.

[Signature]
Governor of Arizona

H.B. 2445

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 30th day of April, 2013,

at 9:35 o'clock [Signature] M.

[Signature]
Secretary of State