

HOUSE BILL 2325

By Stewart

AN ACT to amend Tennessee Code Annotated, Section 71-5-183, relative to administrative hearings under the Tennessee Medicaid False Claims Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-5-183, is amended by adding the following language as an appropriately designated subsection:

(h)

(1) Upon written request of the Attorney General and Reporter, the bureau of TennCare may bring an action as an administrative proceeding on behalf of the state for recovery under section 71-5-182 against any person specified by the Attorney General and Reporter other than an enrollee, recipient or applicant, subject to the conditions set forth in this subsection.

(2) The amount of actual damages which the state may seek in such administrative proceeding shall not exceed ten thousand dollars (\$10,000). This limit shall not apply to any civil penalties or costs which the state is eligible to recover under section 71-5-182 or to the provisions of section 71-5-182 related to double or treble damages.

(3) Notwithstanding the language of section 71-5-182, the civil penalty for each violation of section 71-5-182 in such administrative proceeding shall be not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000).

(4) Any administrative action brought pursuant to this subsection shall be subject to the provisions of section 71-5-184.

(5) Any administrative action brought pursuant to this subsection shall be initiated as a contested case in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(6) The bureau of TennCare shall have authority to promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5, as are necessary to implement the provisions of this subsection. Such rules may be promulgated as public necessity rules. For purposes of rendering a final order pursuant to the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5, the bureau of TennCare is designated as the agency to review initial orders and issue final agency decisions. Orders issued by the bureau of TennCare shall have the effect of a final order pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(7)

(A) Whenever an order issued by the bureau of TennCare pursuant to this part has become final, a notarized copy of the order may be filed in the Office of the Clerk of the Chancery Court of Davidson County.

(B) When filed in accordance with the provisions of this subsection, a final order shall be considered as a judgment by consent of the parties on the same terms and conditions as those recited therein. Such judgment shall be promptly entered by the court. Except as otherwise provided in this subsection, the procedure for entry of judgment and the effect thereof shall be the same as provided in Title 26, Chapter 6.

(C) A judgment entered pursuant to this subsection shall become final on the date of entry.

(D) A final judgment under this subsection has the same effect, is subject to the same procedures, and may be enforced or satisfied in the same manner, as any other judgment of a court of record of this state.

(8) Any recovery under this subsection in excess of the amounts paid to reimburse the bureau of TennCare for damages and costs and to other interested parties shall be paid to the Attorney General and Reporter to be used to investigate and prosecute health care fraud in the TennCare program.

SECTION 2. The provisions of this act are declared to be remedial in nature, and all provisions of this act shall be liberally construed to effectuate its purposes.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.