

Approved April 8, 1976.

CHAPTER 188—S.F.No.1957

[Coded in Part]

An act relating to medical assistance for the needy; prohibiting false claims for reimbursement; making certain vendors ineligible for reimbursement; providing access to certain medical records for verification of claims; providing for a penalty; amending Minnesota Statutes 1974, Sections 256B.064; 256B.27; Chapters 256B and 609, by adding sections; Minnesota Statutes, 1975 Supplement, Sections 256B.12 and 609.52, Subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1974, Section 256B.064, is amended to read:

256B.064 PUBLIC WELFARE; MEDICAL ASSISTANCE FOR NEEDY; CLAIMS; INELIGIBLE PROVIDER. Subdivision 1. The commissioner ~~is authorized to~~ may terminate payments under chapter 256B to any person or facility providing medical assistance which, under applicable federal law or regulation, has been ~~finally~~ determined to be ineligible for payments under Title XIX of the Social Security Act.

Subd. 2. Any vendor of medical care who submits to the state agency a claim for reimbursement, a cost report, or a rate application which he knows to be false in whole or in part shall be declared ineligible for further payments of medical assistance funds by the commissioner of public welfare. The commissioner shall determine the time period of ineligibility and any conditions for reinstatement of eligibility. No vendor of medical care shall be declared ineligible without prior notice and an opportunity for a hearing, pursuant to Minnesota Statutes, Chapter 15, on the commissioner's proposed action.

Sec. 2. Minnesota Statutes, 1975 Supplement, Section 256B.12, is amended to read:

256B.12 LEGAL REPRESENTATION. The attorney general or the appropriate county attorney appearing at the direction of the attorney general shall be the attorney for the state agency, and the county attorney of the appropriate county shall be the attorney for the local agency in all matters pertaining hereto. To prosecute under this chapter or sections 5 and 6 of this act, or to recover payments wrongfully made under this chapter, the attorney general or the appropriate county attorney, acting independently or at the direction of the attorney general may institute a criminal or civil action.

Sec. 3. Minnesota Statutes 1974, Section 256B.27, is amended to

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read:

256B.27 MEDICAL ASSISTANCE; COST REPORTS. Subdivision 1. In the interests of efficient administration of the medical assistance to the needy program and incident to the approval of rates and charges therefor, the commissioner of public welfare may require ~~such any~~ reports, information, and audits of medical vendors ~~as which~~ he deems necessary.

Subd. 2. All reports as to the costs of operations or of medical care provided which are submitted by vendors of medical care for use in determining their rates or reimbursement shall be submitted under oath as to the truthfulness of their contents by the vendor or an officer or authorized representative of the vendor.

Subd. 3. The commissioner of public welfare, with the written consent of the recipient, shall be allowed access to all medical records of medical assistance recipients solely for the purposes of investigating whether or not: (a) a vendor of medical care actually provided the medical care for which a claim for reimbursement was made; or (b) the medical care was medically necessary. To the extent feasible, the commissioner shall contract with a review organization, as defined in Minnesota Statutes, Section 145.61, in determining whether or not the medical care provided was medically necessary. Notwithstanding any other law to the contrary, a vendor of medical care shall not be subject to any civil or criminal liability for providing access to medical records to the commissioner of public welfare pursuant to this section.

Subd. 4. No person shall be eligible for medical assistance unless he has authorized in writing the commissioner of public welfare to examine all personal medical records developed while receiving medical assistance for the sole purpose of investigating whether or not a vendor has submitted a claim for reimbursement, cost report or rate application which the vendor knows to be false in whole or in part.

Subd. 5. Medical records obtained by the commissioner of public welfare pursuant to this section are private data, as defined in Minnesota Statutes, Section 15.162, Subdivision 5a.

Sec. 4. Minnesota Statutes 1974, Chapter 256B, is amended by adding a section to read:

[256B.12] TREBLE DAMAGES. Any vendor of medical care who willfully submits a cost report, rate application or claim for reimbursement for medical care which the vendor knows is a false representation and which results in the payment of public funds for which the vendor is ineligible shall, in addition to other provisions of Minnesota law, be subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. The damages awarded shall include three times the payments which result from the false representation, together with costs and disbursements, including reasonable at-

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torneys' fees or their equivalent.

Sec. 5. Minnesota Statutes 1974, Chapter 609, is amended by adding a section to read:

[609.466] MEDICAL ASSISTANCE FRAUD. Any person who, with the intent to defraud, presents a claim for reimbursement, a cost report or a rate application, relating to the payment of medical assistance funds pursuant to Minnesota Statutes, Chapter 256B, to the state agency, which is false in whole or in part, is guilty of an attempt to commit theft of public funds and may be sentenced accordingly.

Sec. 6. Minnesota Statutes, 1975 Supplement, Section 609.52, Subdivision 2, is amended to read:

Subd. 2. **ACTS CONSTITUTING THEFT.** Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) Intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without his consent and with intent to deprive the owner permanently of possession of the property; or

(2) Having a legal interest in movable property, intentionally and without consent, takes such property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) Obtains for himself or another the possession, custody or title to property of a third person by intentionally deceiving him with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) The issuance of a check, draft, or order for the payment of money or the delivery of property knowing that he is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) A promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) The unauthorized use of a credit card, credit plate, charge plate, or other identification device issued by an organization to a person for use in purchasing goods on credit; or

(d) The preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for pay-

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ment for medical care provided to a recipient of medical assistance under Minnesota Statutes, Chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(4) By swindling, whether by artifice, trick, device, or any other means, obtains property from another person; or

(5) Intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and;

(a) The control exercised manifests an indifference to the rights of the owner or the restoration of the property to him; or

(b) He pledges or otherwise attempts to subject the property to an adverse claim; or

(c) He intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) Finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to his own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to him; or

(7) Intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) Intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to his own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to his own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to him from a source other than the owner of the trade secret; or

(9) Leases or rents personal property under a written instrument and who with intent to place such property beyond the control of the lessor conceals or aids or abets the concealment of such property or any part thereof, or any lessee of such property who sells, conveys or encumbers such property or any part thereof without the written consent of the lessor, without informing the person to whom he sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining such property or fails or refuses to return such property to lessor within five days after

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written demand for such return has been served personally in the manner provided for service of process of a civil action or sent by registered or certified mail to the last known address of the lessee, which ever shall occur later, shall be evidence of intent to violate this clause. Service by certified or registered mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to such person at the address for such person set forth in the lease or rental agreement, or, in the absence of such address, to such person's last known place of residence; or

(10) Alters, removes or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal or obliteration.

Sec. 7. EFFECTIVE DATE. This act is effective on the day following its final enactment.

Approved April 8, 1976.

CHAPTER 189—S.F.No.1997

An act relating to taxation; credits on tax on fermented malt beverages; amending Minnesota Statutes 1974, Section 340.47, Subdivisions 2 and 2a.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1974, Section 340.47, Subdivision 2, is amended to read:

Subd. 2. **TAXATION; MALT BEVERAGES; TAX CREDITS.** An excise tax is hereby assessed, imposed, and levied upon the sale, either directly or indirectly of fermented malt beverages other than for shipment in interstate or foreign commerce. Such tax shall not be imposed or collected upon fermented malt beverages given away by a brewery for consumption only upon the brewery premises, for which no charge of any kind is made or collected; nor shall fermented malt liquors distributed to brewery employees for consumption only upon the brewery premises pursuant to a contract of employment be subject to such tax. Such tax shall be levied and collected at the rate of \$2 per barrel of 31 gallons, containing not more than 3.2 percent of alcohol by weight, and a tax of \$4 per barrel of 31 gallons containing more than 3.2 percent of alcohol by weight, and at a proportional rate for fractional parts thereof. All the receipts from these taxes shall be paid into the general fund by the liquor control commissioner. Any brewer producing and selling within this state fermented malt beverages shall receive a credit

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