

# HOUSE . . . . . No. 1639

By Mr. Aleixo of Taunton, petition of Francis X. Bellotti (Attorney General), Theodore J. Aleixo, Jr., Louis P. Bertonazzi, Alan D. Sisitsky, John E. Murphy, Jr., and John J. Finnegan for legislation to prohibit fraud in obtaining benefits or payments in connection with the medical care and assistance program. Health Care.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT TO PROHIBIT FRAUD IN THE OBTAINING OF BENEFITS OR PAYMENTS IN CONNECTION WITH THE MEDICAL CARE AND ASSISTANCE PROGRAM; TO PROHIBIT KICKBACKS OR BRIBES IN CONNECTION WITH THE PROGRAM; TO PROHIBIT CONSPIRACIES IN OBTAINING BENEFITS OR PAYMENTS; TO PROVIDE FOR THE RECOVERY OF MONIES RECEIVED BY REASON OF FRAUDULENT CONDUCT; AND TO PRESCRIBE PENALTIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, as follows:*

1 SECTION 1. Section 35 of Chapter 6A of the General Laws, as  
2 appearing in Section 2 of Chapter 1229 of the Acts of 1973, is  
3 hereby amended by adding after the words "representative  
4 thereof", in line 6, the words: — or any member of the Attorney  
5 General's Medicaid Fraud Control Unit where the provider of  
6 health care services receives reimbursement or payment under  
7 Chapter 118E.

1 SECTION 2. Section 5D of Chapter 18 of the General Laws, as  
2 appearing in Section 6 of Chapter 885 of the Acts of 1969, is hereby  
3 amended by adding after the words "Section 5B", in line 3, the  
4 words: — or the Medicaid False Claim Act, codified as section 21  
5 (A-G) of Chapter 118E of the General Laws.

1 SECTION 3. Chapter 118E of the General Laws, as appearing  
2 in section 1 of chapter 800 of the acts of 1969, is hereby amended by  
3 striking out section 21 and inserting in place thereof the following  
4 sections:—

5 *Section 21.* This Act shall be known and may be cited as “The  
6 Medicaid False Claim Act”.

7 *Section 21A.* (a) Any person who furnishes items or services  
8 for which payment may be made under General Laws, chapter  
9 118E, who:—

10 (1) knowingly and wilfully makes or causes to be made any false  
11 statement or representation of a material fact in any application for  
12 any benefit or payment under this chapter; or

13 (2) knowingly and wilfully makes or causes to be made any false  
14 statement or representation of a material fact for use in determin-  
15 ing rights to such benefit or payment; or

16 (3) having knowledge of the occurrence of any event affecting (i)  
17 his initial or continued right to any such benefit or payment or (ii)  
18 the benefit of any other individual in whose behalf he has applied  
19 for or is receiving such benefit or payment, conceals or fails to  
20 disclose such an event with an intent fraudulently to secure such  
21 benefit or payment either in a greater amount or quantity than is  
22 due or when no such benefit or payment is authorized; or

23 (4) having made application to receive any such benefit or pay-  
24 ment for the use and benefit of another and having received it,  
25 knowingly and wilfully converts such benefits or payment other  
26 than for the use and benefit of such person, shall be punished by a  
27 fine of not more than ten thousand dollars, or by imprisonment in  
28 the state prison for not more than five years or in a jail or house of  
29 correction for not more than two and one-half years, or by both  
30 such fine and imprisonment.

31 (b) Any person who does not furnish items of services for which  
32 payment may be made under General Laws, Chapter 118E, who  
33 violates any of the provisions of sub-sections (1) through (4) of  
34 section 21A (a) of this chapter shall be punished by imprisonment  
35 in a jail or house of correction for not more than two and one-half  
36 years or by a fine of not more than five thousand dollars or both.

37 *Section 21B.* In any case where an individual who is otherwise  
38 eligible for assistance under this chapter is convicted of an offense  
39 under sub-section (b) of Section 21A, the Department of Public  
40 Welfare may at its option, limit, restrict, or suspend the eligibility  
41 of that individual for such period as it deems appropriate, not to  
42 exceed one year; but the imposition of a limitation, restriction or  
43 suspension with respect to the eligibility of any individual under  
44 this sentence shall not affect the eligibility of any other person for  
45 assistance under General Laws, Chapter 118E, regardless of the  
46 relationship between that individual and such other person.

47 *Section 21C.* (a) Whoever (i) solicits or receives any remunera-  
48 tion (including any kick-back, bribe or rebate) directly or indi-  
49 rectly, overtly or covertly, in cash or in kind in return for  
50 purchasing, leasing, ordering or arranging for or recommending  
51 purchasing, leasing, or ordering any good, facility, service, or item  
52 for which payment may be made in whole or in part under this  
53 chapter, or (ii) offers or pays any remuneration (including any  
54 kick-back, bribe or rebate) directly or indirectly, overtly or  
55 covertly, in cash or in kind to induce such person to purchase,  
56 lease, order, or arrange for or recommend purchasing, leasing, or  
57 ordering any good, facility, service, or item for which payment may  
58 be made in whole or in part under this chapter shall be punished by  
59 a fine of not more than ten thousand dollars, or by imprisonment in  
60 the state prison for not more than five years or in a jail or house of  
61 correction for not more than two and one-half years, or by both  
62 such fine and imprisonment.

63 (b) Section 21C (a) shall not apply to (i) a discount or other  
64 reduction in price obtained by a provider of services or other entity  
65 under this chapter if the reduction in price is properly disclosed and  
66 appropriately reflected in the costs claimed or charges made by the  
67 provider or entity under this chapter and (ii) any amount paid by  
68 an employer to an employee (who has a bona fide employment  
69 relationship with such employer) for employment in the provision  
70 of covered items or services.

71 *Section 21D.* Whoever knowingly and wilfully charges for any  
72 service provided to a patient under this chapter, money or other  
73 consideration at a rate in excess of the rates established in accord-

74 ance with this chapter, shall be punished by a fine of not more than  
75 ten thousand dollars, or by imprisonment in the state prison for not  
76 more than five years or in a jail or house of correction for not more  
77 than two and one-half years, or by both such fine and  
78 imprisonment.

79 *Section 21E.* Whoever knowingly and wilfully charges, solicits,  
80 accepts or receives, in addition to any amount otherwise required  
81 to be paid under this chapter, any gift, money, donation, or other  
82 consideration (i) as a precondition of admitting a patient to a  
83 hospital, skilled nursing facility, or intermediate care facility, or (ii)  
84 as a requirement for the patient's continued stay in such a facility  
85 when the cost of the services provided therein to the patient is paid  
86 for (in whole or in part) under this chapter, shall be punished by a  
87 fine of not more than ten thousand dollars, or by imprisonment in  
88 the state prison for not more than five years or in a jail or house of  
89 correction for not more than two and one-half years, or both such  
90 fine and imprisonment.

91 *Section 21F.* If any person, including a corporation violates the  
92 provisions of this act, the Attorney General or a district attorney  
93 may bring a civil action, either in lieu of or in addition to a criminal  
94 prosecution, and recover three times the amount of damages sus-  
95 tained including the costs of investigation and litigation. No action  
96 shall be brought under this sub-section more than six years after it  
97 accrues.

98 *Section 21G.* Any action brought under this chapter may be  
99 filed in the district or superior courts of Suffolk County and may be  
100 prosecuted to final judgment in satisfaction there. Process issued  
101 by a court in which an action is filed may be served anywhere in the  
102 state.

103 *Section 21H.* The remedies in sections 21A, 21B, 21C, 21D,  
104 21E, and 21F are in addition to and do not supersede any other  
105 available remedies..