

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 4.**  
**PUBLIC CARE SYSTEMS.**

**CHAPTER 8.**  
**MEDICAID PROVIDER FRAUD PREVENTION.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 8. MEDICAID PROVIDER FRAUD**  
**PREVENTION.**

---

**TABLE OF CONTENTS**

---

§ 4-801. Definitions.

§ 4-802. Penalties; prohibited acts.

§ 4-803. Additional civil penalties; appeals; testimony inadmissible.

§ 4-804. Prosecutions; investigations; subpoenas; witness fees; perjury; compulsion of obedience to subpoena; oaths; access to records.

§ 4-805. Rules.

# CHAPTER 8. MEDICAID PROVIDER FRAUD PREVENTION.

## § 4-801. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Benefit" means any benefit authorized under the District of Columbia Medicaid Program.
- (2) "Claim," "request for payment," or "claim for payment" means an application or communication, whether written, oral, electronic impulse, or magnetic tape, which is submitted by a person to the Department of Health of the District of Columbia for payment and which is used to identify any item or service for which payment may be made under the District of Columbia Medicaid Program.
- (3) "Conditions of participation" means those items set forth in the provider agreement with the District of Columbia which a provider has agreed to meet in providing items or services under the District of Columbia Medicaid Program.
- (4) "Department" means the Department of Health of the District of Columbia or its agent.
- (5) "Director" means the Director of the Department of Health.
- (6) "Item or service" means:
  - (A) Any particular item, device, medical supply, or service claimed to have been provided to a recipient and listed in an itemized claim for program payment or a request for payment; and
  - (B) In the case of a claim based on costs, any entry or omission in a cost report, books of accounts, or other documents supporting the claim.
- (7) "Medicaid legislation" means title 19 of the Social Security Act (42 U.S.C. § 1396 et seq.).
- (8) "Medicaid program" means the program authorized by title 19 of the Social Security Act and by § 1-307.02, and administered by the Department of Health.
- (9) "Payment" means any payment made by the District of Columbia to a provider for any item or service under the District of Columbia Medicaid Program.
- (10) "Person" means an individual, firm, partnership, group, corporation, professional corporation or association, institution, agency, or other entity, public or private, that has been approved or seeks to be approved by the District of Columbia to provide medical assistance to recipients.
- (11) "Provider agreement" means a contract executed by the District of Columbia and a provider pursuant to title 19 of the Social Security Act and which contract sets forth the rights, duties, and obligations of the parties.
- (12) "Provider" means an individual or entity furnishing services under a provider agreement.
- (13) "Recipient" means any individual who has been designated as eligible to receive or who receives any item or service under the District of Columbia Medicaid Program.
- (14) "Record" means any medical, professional, or business record relating to the care or treatment of a recipient which is maintained or required to be maintained by a provider.
- (15) "Sign" means to affix a signature, directly or indirectly, by means of a handwriting, typewriter, signature stamp, computer impulse, or any other means.

(Mar. 16, 1985, D.C. Law 5-193, § 2, 32 DCR 1010; Mar. 6, 2002, D.C. Law 14-77, § 2(a), 49 DCR 11260.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 3-701.

#### *Effect of Amendments*

D.C. Law 14-77, in pars. (2), (4), (5), and (8), substituted "Department of Health" for "Department of Human

Services".

*Temporary Amendments of Section*

For temporary (225 day) compliance of the District of Columbia Medicaid program with the new federal requirements, see §§ 2-4 of Medicaid Benefits Protection Temporary Act of 1994 (D.C. Law 10-131, June 24, 1998, law notification 41 DCR 4631).

*Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 2(a) of Medicaid Provider Fraud Prevention Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-244, January 28, 2002, 49 DCR 1034).

*Legislative History of Laws*

Law 5-193, the "Medicaid Provider Fraud Prevention Amendments Act of 1984," was introduced in Council and assigned Bill No. 5-511, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 4, 1984, and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-258 and transmitted to both Houses of Congress for its review.

Law 14-77, the "Medicaid Provider Fraud Prevention Amendment Act of 2001", was introduced in Council and assigned Bill No. 14-96, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 2, 2001, and November 6, 2001, respectively. Signed by the Mayor on November 29, 2001, it was assigned Act No. 14-197 and transmitted to both Houses of Congress for its review. D.C. Law 14-77 became effective on March 6, 2002.

*Editor's Notes*

As enacted by D.C. Law 5-193, § 2, this section contained the subsection designation "(a)." As this material contained no other subsection designations, the designation "(a)" has been deleted for stylistic consistency.

*Delegation of Authority*

Delegation of authority pursuant to Law 5-193, see Mayor's Order 86-49, March 31, 1986.

## **§ 4-802. PENALTIES; PROHIBITED ACTS.**

(a) A person shall be guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisonment not to exceed 1 year, or both, for each violation of the following prohibitions in this section.

(b) No one may, with intent to defraud, by means of a false claim, false statement, failure to disclose information, or other fraudulent scheme or device, obtain or attempt to obtain:

- (1) Authorization to become or remain a provider;
- (2) A higher rate of payment than that to which the person is entitled as a provider;
- (3) Payment, as a provider, for items or services that the person knows or has reason to know were not provided as claimed;
- (4) Payment which may not be made under the program under which the claim was made; or
- (5) Payment submitted in violation of an agreement between the person and the District of Columbia.

(c) No one may solicit, accept, or agree to accept any type of remuneration for the following:

- (1) Referring a recipient to a particular provider of any item or service or for which payment may be made under the District of Columbia Medicaid Program; or
- (2) Recommending the purchase, lease, or order of any good, facility, service, or item for which payment may be made under the District of Columbia Medicaid Program.

(d) No one may confer, offer, or agree to confer or offer any type of remuneration for the conduct described in subsection (c) of this section.

(e) No one may charge, solicit, accept, or attempt to charge, solicit, accept or receive anything of value from a recipient or provider in addition to the amount of money payable under the District of Columbia Medicaid Program.

(f) No one may solicit, receive, or attempt to solicit or receive anything of value as a precondition for admitting a recipient to a hospital, skilled nursing facility, intermediate care facility, or any other facility, or as a condition for providing any item or service to a recipient.

(Mar. 16, 1985, D.C. Law 5-193, § 3, 32 DCR 1010.)

**§ 4-803. ADDITIONAL CIVIL PENALTIES; APPEALS; TESTIMONY INADMISSIBLE.**

(a) Any person that presents or causes to be presented to an officer, employee, or agent of the District of Columbia a claim under the Medicaid program that is for a medical or other item or service that the person knows or has reason to know was not provided as claimed, or that requests a payment which may not be made under the program under which the claim was made, or is submitted in violation of an agreement between the person and the District of Columbia, shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than \$2,000 for each item or service. In addition, the person shall be subject to an assessment of not more than twice the amount claimed for each item or service in place of the damages sustained by the District of Columbia because of the claim.

(b)(1) The Director may initiate a proceeding to determine whether to impose a civil money penalty or assessment under subsection (a) of this section, but only as authorized by the Corporation Counsel pursuant to procedures agreed upon by them.

(2) The Director shall not make a determination adverse to any person under subsection (a) of this section until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

(c) In determining the amount or scope of any penalty or assessment imposed pursuant to subsection (a) of this section, the Director shall take into account the following:

(1) The nature of claims and the circumstances under which they were presented;

(2) The degree of culpability, history of prior offenses, and financial condition of the person presenting the claims; and

(3) Other matters as justice may require.

(d) Any person adversely affected by a determination under this section may obtain a review of the determination in the Court of Appeals of the District of Columbia in accordance with § 2-510.

(e) Civil money penalties and assessments imposed under this section may be recovered in a civil action in the name of the District of Columbia by the Corporation Counsel. Amounts recovered under this section shall be paid to the District of Columbia Treasurer and allocated, first, to reimburse the Medicaid program and, then, to the General Fund of the District of Columbia. The amount of the penalty or assessment, when finally determined, may be deducted from any sum then or later owing by the District of Columbia to the person against whom the penalty or assessment has been charged.

(f) A determination by the Director to impose a penalty or assessment under subsection (a) of this section shall be final unless timely appealed pursuant to subsection (d) of this section. Matters that were raised or that could have been raised in a hearing before the Director or in an appeal pursuant to subsection (d) of this section may not be raised as a defense to a civil action brought by the District of Columbia.

(g) Whenever the Director's determination to impose a penalty or assessment under subsection (a) of this section becomes final, the Director shall notify the appropriate licensing agency or organization that the penalty or assessment has become final and also about the reasons for the penalty or assessment.

(h) Testimony in any civil proceeding pursuant to this chapter and the fruits of that testimony shall be inadmissible as evidence in a criminal trial except in a prosecution for perjury or false statement.

(Mar. 16, 1985, D.C. Law 5-193, § 4, 32 DCR 1010.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

**§ 4-804. PROSECUTIONS; INVESTIGATIONS; SUBPOENAS; WITNESS FEES; PERJURY; COMPULSION OF OBEDIENCE TO SUBPOENA; OATHS; ACCESS**

## TO RECORDS.

(a) Criminal prosecutions under § 4-802 may be brought in the Superior Court of the District of Columbia by the Corporation Counsel or the Office of the Inspector General. Civil actions under § 4-803(e) may be brought in the Superior Court of the District of Columbia by the Corporation Counsel.

(b) In addition to any power to bring criminal or civil actions or otherwise carry out the duties under this chapter, the Corporation Counsel or the Office of the Inspector General shall have the authority to investigate all alleged violations of this chapter and, in exercising this power, may issue subpoenas for witnesses to appear and testify or to produce all books, records, papers, or documents in any investigation into alleged violations of this chapter.

(c) Witnesses, other than those employed by the District of Columbia, summoned under subsection (b) of this section shall be paid the same fees and mileage that witnesses are paid in the Superior Court of the District of Columbia, but the fees need not be tendered to the witnesses before they appear and testify or produce books, records, papers, or documents.

(d) Any willful false swearing on the part of any witness testifying about a material fact pursuant to a subpoena issued under subsection (b) of this section shall be subject to prosecution pursuant to § 22-2402.

(e) If any witness having been personally summoned shall neglect or refuse to obey the subpoena, the Corporation Counsel or the Office of the Inspector General may report that fact to the Superior Court of the District of Columbia. The Superior Court of the District of Columbia may compel obedience to the subpoena to the same extent as witnesses may be compelled to obey the subpoenas of that court.

(f) The Corporation Counsel or the Office of the Inspector General may administer oaths to witnesses summoned in any investigation under subsection (b) of this section.

(g) No person holding records required to be maintained by the Medicaid legislation or regulations promulgated pursuant to that legislation may refuse to provide the Corporation Counsel or the Office of the Inspector General with access to the records on the basis that release would violate any recipient's right of privacy, any recipient's privilege against disclosure or use, or any professional or other privilege or right.

(Mar. 16, 1985, D.C. Law 5-193, § 5, 32 DCR 1010; Mar. 6, 2002, D.C. Law 14-77, § 2(b), 49 DCR 11260.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 3-704.

#### *Effect of Amendments*

D.C. Law 14-77 rewrote subsec. (a); and, in subsecs. (b), (e), (f), and (g) inserted "or the Office of the Inspector General" following "the Corporation Counsel". Prior to amendment, subsec. (a) read as follows:

"(a) Criminal prosecutions under § 4-802 and civil actions brought under § 4-803(e) shall be brought in the Superior Court of the District of Columbia by the Corporation Counsel."

#### *Temporary Amendments of Section*

For temporary (225 day) amendment of section, see § 2 of Medicaid Provider Fraud Prevention Temporary Amendment Act of 2001 (D.C. Law 14-3, June 13, 2001, law notification 48 DCR 3331).

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 2 of Medicaid Provider Fraud Prevention Emergency Amendment Act of 2001 (D.C. Act 14-16, March 16, 2001, 48 DCR 2685).

For temporary (90 day) amendment of section, see § 2 of Medicaid Provider Fraud Prevention Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-61, June 6, 2001, 48 DCR 5706).

For temporary (90 day) amendment of section, see § 2(b) of Medicaid Provider Fraud Prevention Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-244, January 28, 2002, 49 DCR 1034).

#### *Legislative History of Laws*

For legislative history of D.C. Law 5-193, see Historical and Statutory Notes following § 4-801.

For Law 14-77, see notes following § 4-801.

## § 4-805. RULES.

The Mayor shall issue rules to implement the provisions of this chapter pursuant to subchapter I of Chapter 5 of Title 2.

(Mar. 16, 1985, D.C. Law 5-193, § 6, 32 DCR 1010.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 3-705.

*Legislative History of Laws*

For legislative history of D.C. Law 5-193, see Historical and Statutory Notes following § 4-801.