

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | _____ | (Y/N) |
| ADOPTED AS AMENDED | _____ | (Y/N) |
| ADOPTED W/O OBJECTION | _____ | (Y/N) |
| FAILED TO ADOPT | _____ | (Y/N) |
| WITHDRAWN | _____ | (Y/N) |
| OTHER | | |

1 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee

3 Representative Pigman offered the following:

Amendment (with title amendment)

6 Between lines 255 and 256, insert:

7 Section 2. Subsection (17) of section 409.910, Florida
8 Statutes, is amended to read:

9 409.910 Responsibility for payments on behalf of Medicaid-
10 eligible persons when other parties are liable.—

11 (17) (a) A recipient or his or her legal representative or
12 any person representing, or acting as agent for, a recipient or
13 the recipient's legal representative, who has notice, excluding
14 notice charged solely by reason of the recording of the lien
15 pursuant to paragraph (6) (c), or who has actual knowledge of the
16 agency's rights to third-party benefits under this section, who
17 receives any third-party benefit or proceeds therefrom for a
18 covered illness or injury, is required either to pay the agency,
19 within 60 days after receipt of settlement proceeds, the full

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20 amount of the third-party benefits, but not in excess of the
21 total medical assistance provided by Medicaid, or to place the
22 full amount of the third-party benefits in an interest-bearing a
23 trust account for the benefit of the agency pending ~~an judicial~~
24 ~~or~~ administrative determination of the agency's right thereto
25 under this subsection. Proof that any such person had notice or
26 knowledge that the recipient had received medical assistance
27 from Medicaid, and that third-party benefits or proceeds
28 therefrom were in any way related to a covered illness or injury
29 for which Medicaid had provided medical assistance, and that any
30 such person knowingly obtained possession or control of, or
31 used, third-party benefits or proceeds and failed either to pay
32 the agency the full amount required by this section or to hold
33 the full amount of third-party benefits or proceeds in the
34 interest-bearing trust ~~account~~ pending ~~judicial~~~~or~~
35 administrative determination, unless adequately explained, gives
36 rise to an inference that such person knowingly failed to credit
37 the state or its agent for payments received from social
38 security, insurance, or other sources, pursuant to s.
39 414.39(4) (b), and acted with the intent set forth in s.
40 812.014(1).

41 (b) A recipient may contest the amount designated as
42 recovered medical expense damages payable to the agency pursuant
43 to paragraph (11) (f) by filing a petition under chapter 120
44 within 21 days after the date of payment of funds to the agency
45 or placing the full amount of the third-party benefits in the
46 trust account for the benefit of the agency pursuant to
47 paragraph (a). The petitions shall be filed with the Division of

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48 Administrative Hearings. For purposes of chapter 120, the
49 payment of funds to the agency or placing the full amount of the
50 third-party benefits in the trust account for the benefit of the
51 agency constitutes final agency action and notice thereof. This
52 procedure constitutes the exclusive method by which the amount
53 of third-party benefits payable to the agency may be challenged.
54 In order to successfully challenge the amount payable to the
55 agency, the recipient must prove, by clear and convincing
56 evidence, that a lesser portion of the total recovery should be
57 allocated as reimbursement for past and future medical expenses
58 than that amount calculated by the agency pursuant to paragraph
59 (11) (f) or that Medicaid provided a lesser amount of medical
60 assistance than that determined by the agency. The Division of
61 Administrative Hearings has final order authority for
62 proceedings under this section.

63 (c) The agency's provider processing system reports are
64 admissible as prima facie evidence in substantiating the
65 agency's claim.

66 (d) Venue for all administrative proceedings pursuant to
67 paragraph (a) shall be in Leon County, at the discretion of the
68 agency. Venue for all appellate proceedings arising from the
69 administrative proceeding pursuant to paragraph (a) shall be at
70 the First District Court of Appeal, at the discretion of the
71 agency.

72 (e) Each party shall bear its own attorney fees and costs
73 for any proceeding conducted pursuant to paragraph (a) or
74 paragraph (b).

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75 (f)~~(a)~~ In cases of suspected criminal violations or
76 fraudulent activity, the agency may take any civil action
77 permitted at law or equity to recover the greatest possible
78 amount, including, without limitation, treble damages under ss.
79 772.11 and 812.035(7).

80 (g)~~(b)~~ The agency may ~~is authorized to~~ investigate and may
81 ~~to~~ request appropriate officers or agencies of the state to
82 investigate suspected criminal violations or fraudulent activity
83 related to third-party benefits, including, without limitation,
84 ss. 414.39 and 812.014. Such requests may be directed, without
85 limitation, to the Medicaid Fraud Control Unit of the Office of
86 the Attorney General, or to any state attorney. Pursuant to s.
87 409.913, the Attorney General has primary responsibility to
88 investigate and control Medicaid fraud.

89 (h)~~(e)~~ In carrying out duties and responsibilities related
90 to Medicaid fraud control, the agency may subpoena witnesses or
91 materials within or outside the state and, through any duly
92 designated employee, administer oaths and affirmations and
93 collect evidence for possible use in either civil or criminal
94 judicial proceedings.

95 (i)~~(d)~~ All information obtained and documents prepared
96 pursuant to an investigation of a Medicaid recipient, the
97 recipient's legal representative, or any other person relating
98 to an allegation of recipient fraud or theft is confidential and
99 exempt from s. 119.07(1):

100 1. Until such time as the agency takes final agency
101 action;

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102 2. Until such time as the Department of Legal Affairs
103 refers the case for criminal prosecution;

104 3. Until such time as an indictment or criminal
105 information is filed by a state attorney in a criminal case; or

106 4. At all times if otherwise protected by law.
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109 **T I T L E A M E N D M E N T**

110 Remove line 12 and insert:

111 screening; amending s. 409.910, F.S.; revising
112 provisions relating to settlements of Medicaid claims
113 against third parties; providing procedures for a
114 Medicaid recipient to contest the amount of recovered
115 medical expense damages; amending s. 409.913, F.S.;
116 increasing the