249A.47 Improperly filed claims — other violations — imposition of monetary recovery and sanctions.

1. In addition to any other remedies or penalties prescribed by law, including but not limited to those specified pursuant to section 249A.51 or chapter 685, all of the following shall be applicable to violations under the medical assistance program:

a. A person who intentionally and purposefully presents or causes to be presented to the department a claim that the department determines meets any of the following criteria is subject to a civil penalty of not more than ten thousand dollars for each item or service:

(1) A claim for medical or other items or services that the provider knows was not provided as claimed, including a claim by any provider who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a billing code that the provider knows will result in a greater payment to the provider than the billing code the provider knows is applicable to the item or service actually provided.

(2) A claim for medical or other items or services the provider knows to be false or fraudulent.

(3) A claim for a physician service or an item or service incident to a physician service by a person who knows that the individual who furnished or supervised the furnishing of the service meets any of the following:

(a) Was not licensed as a physician.

(b) Was licensed as a physician, but such license had been obtained through a misrepresentation of material fact.

(c) Represented to the patient at the time the service was furnished that the physician was certified in a medical specialty by a medical specialty board when the individual was not so certified.

(4) A claim for medical or other items or services furnished during a period in which the provider was excluded from providing such items or services.

(5) A claim for a pattern of medical or other items or services that a provider knows were not medically necessary.

b. A provider who intentionally and purposefully presents or causes to be presented to any person a request for payment which is in violation of the terms of either of the following is subject to a civil penalty of not more than ten thousand dollars for each item or service:

(1) An agreement with the department or a requirement of a state plan under Tit. XIX or XXI of the federal Social Security Act not to charge a person for an item or service in excess of the amount permitted to be charged.

(2) An agreement to be a participating provider.

c. A provider who is not an organization, agency, or other entity, and knowing that the provider is excluded from participating in a program under Tit. XVIII, XIX, or XXI of the federal Social Security Act at the time of the exclusion, who does any of the following, is subject to a civil penalty of ten thousand dollars for each day that the prohibited relationship occurs:

(1) Retains a direct or indirect ownership or control interest in an entity that is participating in such programs, and knows of the action constituting the basis for the exclusion.

(2) Is an officer or managing employee of such an entity.

d. A provider who intentionally and purposefully offers to or transfers remuneration to any individual eligible for benefits under Tit. XIX or XXI of the federal Social Security Act and who knows such offer or remuneration is likely to influence such individual to order or receive from a particular provider any item or service for which payment may be made, in whole or in part, under Tit. XIX or XXI of the federal Social Security Act, is subject to a civil penalty of not more than ten thousand dollars for each item or service.

e. A provider who intentionally and purposefully arranges or contracts, by employment or otherwise, with an individual or entity that the provider knows is excluded from participation under Tit. XVIII, XIX, or XXI of the federal Social Security Act, for the provision of items or services for which payment may be made under such titles, is subject to a civil penalty of not more than ten thousand dollars for each item or service.

f. A provider who intentionally and purposefully offers, pays, solicits, or receives payment, directly or indirectly, to reduce or limit services provided to any individual eligible for benefits under Tit. XVIII, XIX, or XXI of the federal Social Security Act, is subject to a civil penalty of not more than fifty thousand dollars for each act.

g. A provider who intentionally and purposefully makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim for payment for items and services furnished under Tit. XIX or XXI of the federal Social Security Act, is subject to a civil penalty of not more than fifty thousand dollars for each false record or statement.

h. A provider who intentionally and purposefully and without good cause fails to grant timely access, upon reasonable request, to the department for the purpose of audits, investigations, evaluations, or other functions of the department, is subject to a civil penalty of fifteen thousand dollars for each day of the failure.

i. A provider who intentionally and purposefully makes or causes to be made any false statement, omission, or misrepresentation of a material fact in any application, bid, or contract to participate or enroll as a provider of services or a supplier under Tit. XVIII, XIX, or XXI of the federal Social Security Act, including a managed care organization or entity that applies to participate as a provider of services or supplier in such a managed care organization or plan, is subject to a civil penalty of fifty thousand dollars for each false statement, omission, or misrepresentation of a material fact.

j. A provider who intentionally and purposefully fails to report and return an overpayment in accordance with section 249A.39 is subject to a civil penalty of ten thousand dollars for each failure to report and return an overpayment.

2. In addition to the civil penalties prescribed under subsection 1, for any violation specified in subsection 1, a provider shall be subject to the following, as applicable:

a. For violations specified in subsection 1, paragraph *"a"*, *"b"*, *"c"*, *"d"*, *"e"*, *"g"*, *"h"*, or *"j"*, an assessment of not more than three times the amount claimed for each such item or service in lieu of damages sustained by the department because of such claim.

b. For a violation specified in subsection 1, paragraph *"f"*, damages of not more than three times the total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose.

c. For a violation specified in subsection 1, paragraph *"i"*, an assessment of not more than three times the total amount claimed for each item or service for which payment was made based upon the application containing the false statement, omission, or misrepresentation of a material fact.

3. In determining the amount or scope of any penalty or assessment imposed pursuant to a violation specified in subsection 1, the director shall consider all of the following:

a. The nature of the claims and the circumstances under which they were presented.

b. The degree of culpability, history of prior offenses, and financial condition of the person against whom the penalties or assessments are levied.

c. Such other matters as justice may require.

4. Of any amount recovered arising out of a claim under Tit. XIX or XXI of the federal Social Security Act, the department shall receive the amount bearing the same proportion paid by the department for such claims, including any federal share that must be returned to the centers for Medicare and Medicaid services of the United States department of health and human services. The remainder of any amount recovered shall be deposited in the general fund of the state.

5. Civil penalties levied under this section are appealable under 441 IAC ch. 7, but, notwithstanding any provision to the contrary in that chapter, the appellant shall bear the burden to prove by clear and convincing evidence that the claim was not filed improperly.

6. For the purposes of this section, *"claim"* includes but is not limited to the submission of a cost report.

2013 Acts, ch 24, §11; 2014 Acts, ch 1092, §53; 2018 Acts, ch 1041, §64