

Maryland False Health Claims Act (SB 279/HB 525)

- ❖ Protecting Taxpayers' Money
- ❖ Fighting Fraud and Abuse
- ❖ Returning Resources to People in Need
- ❖ Improving Patient Care

DHMH's Fiscal Situation:

- Six rounds of cuts during past 18 months (FY09/10)
- Early rounds: vacant positions, duplicated positions, consolidating administrative functions
- Later rounds: cuts to MCOs, hospital payments, state facilities and operations
 - FY09 \$122 million cut from DHMH; FY10 \$279 million cut from DHMH
- Cuts now impact core services
- False Claims Acts (FCA) = Cost Containment Opportunity

Why Maryland Needs an FCA:

- Maryland currently has little more than a no-interest loan program for health care provider seeking to defraud the State of millions of tax dollars.
- Without a State False Claims Act (FCA), Maryland must rely on the federal government to bring suit and to settle with providers who have defrauded our Medicaid program - we relinquish our ability to police our own back yard when fraudulent acts are suspected and patient care is being compromised.
- The federal FCA has subjected Maryland health care providers to similar remedies for submitting false claims to DHMH (Medicaid) **for over 20 years**, but a Maryland FCA would allow the State to initiate its own suits and to participate in cases brought in federal court involving Maryland.
- A Maryland FCA would also increase the State's recoveries, as it provides for up to treble damages.
- According to Kaiser, thirty-four States* currently have State FCAs. Twenty-six of the thirty four include *qui tam* provisions (most recently North Carolina and Connecticut).
- Experience in other States illustrate that *qui tam* provisions are central to a FCA's effectiveness because fraud is more quickly uncovered by whistleblowers. They also serve as a strong deterrent.

FCA Bill Analysis

- A health care provider is prohibited from knowingly submitting a false or fraudulent claim to a State Health Plan or a State Health Program.
- A health care provider who submits the false claim is subject to civil penalties and damages up to three times the loss sustained by the State. A series of factors including whether there has been harm to patients, whether the provider's small size or limited operations, and the provider's attempts to mitigate fraud are considered in assessing damages.
- The State or an individual can file a civil action in court against a health care provider/health care entity who submits false claims—the State must review and take part in the action for it to continue.
- The State may bring the action on its own through information it finds through investigation.
- If an individual brings the action which is successful after the State has intervened, the individual may be granted an award from the monies recovered.
- Individuals bringing an action or cooperating with an action brought by the State are protected from retaliation by their employers.

* This figure includes the District of Columbia