

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1002

(Chair, Health and Government Operations Committee,
et al.) (By Request - Office of the Attorney General)

Health and Government Operations

Finance

Office of the Attorney General - Investigative Authority - Health Care Fraud

This bill authorizes the Attorney General, a deputy Attorney General, or an assistant Attorney General designated by the Attorney General to issue a subpoena for the limited purpose of furthering an ongoing health care fraud investigation. A subpoena may require a person to (1) produce documentary material for inspection, copying, or reproduction; (2) answer, under oath and in writing, written interrogatories; (3) give sworn oral testimony; or (4) provide any combination of these items. A subpoena may be served in the same manner as a subpoena issued by a circuit court. If a person fails to obey a lawfully served subpoena issued under the bill, the Attorney General may report a failure to obey the subpoena to the circuit court with jurisdiction over the matter; the Attorney General must provide a copy of the subpoena and proof of service to the circuit court. After a hearing at which the person who allegedly failed to comply with a subpoena has an opportunity to be heard and represented by counsel, the court may grant appropriate relief. The bill may not be construed to allow the contravention, denial, or abrogation of a privilege or right recognized by law.

Fiscal Summary

State Effect: As the bill's changes are generally procedural in nature, there is no meaningful impact on governmental finances.

Local Effect: The bill is not anticipated to have a material fiscal or operational impact on the circuit courts.

Small Business Effect: None.

Analysis

Current Law: The Office of the Attorney General (OAG) Medicaid Fraud and Vulnerable Victims Unit (MFVVU) (1) investigates and prosecutes fraud by Medicaid health care providers and in the administration of the Medicaid program; (2) investigates and prosecutes crimes involving the abuse or neglect of vulnerable adults in the State; and (3) addresses the opioid crisis by investigating the diversion of pharmaceuticals and the inappropriate dispensing of opioids. MFVVU pursues investigations using a multidisciplinary team approach that utilizes attorneys, investigators, and auditors to unravel complex fraud schemes and address instances of abuse of residents in the State's long-term care system. Cases may be pursued either criminally or civilly utilizing both the criminal statutes and the Maryland False Health Claims Act (MFHCA). MFVVU also participates with other states in collaborative efforts to address nationwide fraud schemes affecting multiple government health programs.

Enacted under Chapter 4 of 2010, MFHCA prohibits a person from making a false or fraudulent claim for payment or approval by the State or the Maryland Department of Health under a State health plan or State health program and authorizes individuals to file private party causes of action on behalf of a governmental entity for false health claims made against the State.

When a person submits a false claim in violation of MFHCA, the State may recover up to three times the amount of the damages sustained and up to \$10,000 per violation. The false claim does not have to be submitted directly to a governmental entity but includes indirect payments, such as a subcontractor submitting a false claim to a prime contractor or contractors submitting claims to nongovernmental agencies that receive government funds.

Additional Comments: OAG advises that the subpoena powers granted under the bill will make OAG investigations into health care fraud more efficient and will clarify current inconsistencies between investigatory powers and health privacy laws.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced in the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2024
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