

Medicaid Kickbacks

This Act makes it unlawful for any person to solicit or receive remuneration in return for referring someone to a service subject to reimbursement by Medicaid, or in return for purchasing, leasing, ordering any good, facility, service or item subject to reimbursement by Medicaid. It also makes it unlawful to offer or pay remuneration for such referrals, purchases, leases or orders.

Submitted as:
North Carolina
[SESSION LAW 2010-185](#)
Status: Enacted into law in 2010.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Prohibit Giving or
2 Receiving Remuneration Related to the Making of Referrals or Purchase/Lease Arrangements
3 That Lead to Medicaid Payments.”
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5 Section 2. [*Receiving Remuneration Related to Federal Health Care Programs.*]

6 (A) It shall be unlawful for any person to knowingly and willfully solicit or receive any
7 remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly,
8 in cash or in-kind:

9 (1) In return for referring an individual to a person for the furnishing or arranging
10 for the furnishing of any item or service for which payment may be made in whole or in part
11 under [insert citation].

12 (2) In return for purchasing, leasing, ordering, or arranging for or recommending
13 purchasing, leasing, or ordering any good, facility, service, or item for which payment may be
14 made in whole or in part under [insert citation].

15 (B) It shall be unlawful for any person to knowingly and willfully offer or pay any
16 remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly,
17 in cash or in-kind to any person to induce such person:

18 (1) To refer an individual to a person for the furnishing or arranging for the
19 furnishing of any item or service for which payment may be made in whole or in part under this
20 section.

21 (2) To purchase, lease, order, or arrange for or recommend purchasing, leasing, or
22 ordering any good, facility, service, or item for which payment may be made in whole or in part
23 under this section.

24 (C) Subsections (A) and (B) of this section shall not apply to contracts between the state
25 and a public or private agency where part of the agency’s responsibility is referral of a person to
26 a provider or any conduct or activity that is specified in 42 U.S.C. § 1320a-7b(b)(3), as amended,
27 or any federal regulations adopted pursuant thereto.

28 (D) Nothing in subsections (A) and (B) of this section shall be interpreted or construed to
29 conflict with 42 U.S.C. § 1320a-7b(b), as amended, or with federal common law or federal
30 agency interpretations of the statute.
31

32 Section 3. [*Severability.*] [Insert severability clause.]
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34 Section 4. [*Repealer.*] [Insert repealer clause.]
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36 Section 5. [*Effective Date.*] [Insert effective date.]