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# A BILL FOR AN ACT

RELATING TO MEDICAL ASSISTANCE FRAUD.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 346-43.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~[+]~~§346-43.5~~[+]~~ **Medical assistance** ~~[frauds,]~~ **fraud,**  
4 **penalties.** ~~[It is unlawful for any person to]~~ (a) A person  
5 commits the offense of medical assistance fraud if:

6           (1) The person knowingly and willfully ~~[make]~~ makes or  
7 ~~[cause]~~ causes to be made to the medical assistance  
8 program any false statement or representation of a  
9 material fact in any application for any benefit or  
10 payment for furnishing services or supplies, or for  
11 the purpose of obtaining greater compensation than  
12 that to which the person is legally entitled, or for  
13 the purpose of obtaining authorization for furnishing  
14 services or supplies~~[. Violation of this section~~  
15 ~~shall be a class C felony. The enforcement of~~  
16 ~~remedies provided under this section are not exclusive~~  
17 ~~and shall not preclude the use of any other criminal~~  
18 ~~or civil remedy.]~~; or



1       (2) The person knowingly makes or causes to be made any  
2       false statement or representation of a material fact  
3       in any application for any medical assistance benefit  
4       or renewal of any medical assistance benefit, or in  
5       any statement, document, or record, in written,  
6       printed, or electronic form, in support of, or  
7       connected with, that application for or renewal of  
8       medical assistance benefits.

9       (b) A person convicted under subsection (a)(2) shall pay  
10      restitution equivalent to the amount of medical assistance  
11      benefits paid by the State on behalf of that person.

12       (c) For purposes of this section, the term "medical  
13      assistance benefit" means health care coverage or services,  
14      including medical, behavioral health, dental or long-term care  
15      services, provided to or paid for on behalf of a person by the  
16      State, regardless of source of funding. Payment for medical  
17      assistance benefits may be made through capitated payments,  
18      insurance premiums, co-payments, any payments made by the State  
19      to that person's health care providers, and any other payments  
20      made by the State on behalf of the person for health care  
21      coverage or services.



1        (d) The offense of medical assistance fraud is a class C  
2 felony.

3        (e) The remedies provided under this section are not  
4 exclusive and shall not preclude the use of any other criminal  
5 or civil remedy."

6        SECTION 2. Section 701-108, Hawaii Revised Statutes, is  
7 amended by amending subsection (3) to read as follows:

8        "(3) If the period prescribed in subsection (2) has  
9 expired, a prosecution may nevertheless be commenced for:

10        (a) Any offense an element of which is [~~either~~] fraud,  
11        deception[~~7~~] as defined in section 708-800, [~~or~~] a  
12        breach of fiduciary obligation, or the offense of  
13        medical assistance fraud under section 346-43.5,  
14        within three years after discovery of the offense by  
15        an aggrieved party or by a person who has a legal duty  
16        to represent an aggrieved party and who is oneself not  
17        a party to the offense, but in no case shall this  
18        provision extend the period of limitation by more than  
19        six years from the expiration of the period of  
20        limitation prescribed in subsection (2);

21        (b) Any offense based on misconduct in office by a public  
22        officer or employee at any time when the defendant is



1 in public office or employment or within two years  
2 thereafter, but in no case shall this provision extend  
3 the period of limitation by more than three years from  
4 the expiration of the period of limitation prescribed  
5 in subsection (2); and

6 (c) Any felony offense involving evidence containing  
7 deoxyribonucleic acid from the offender, if a test  
8 confirming the presence of deoxyribonucleic acid is  
9 performed prior to expiration of the period of  
10 limitation prescribed in subsection (2), but in no  
11 case shall this provision extend the period of  
12 limitation by more than ten years from the expiration  
13 of the period of limitation prescribed in subsection  
14 (2)."

15 SECTION 3. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun, before the effective date of this Act.

18 SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect on July 1, 2014.



**Report Title:**

Medical Assistance Fraud; Statute of Limitations; Provider:  
Recipient

**Description:**

Clarifies that fraudulently applying for or renewing medical assistance benefits is a class C felony regardless of whether the offender is a provider or a recipient. Specifies the amount of restitution when the fraud is committed by a recipient of medical assistance benefits. Extends the period of limitation for prosecution by up to six years for the offense of medical assistance fraud. Effective July 1, 2014. (HB2249 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

