

TENNESSEE STATUTES AND CODES

71-5-2601 - Offenses Penalties Remedies Limitations.



71-5-2601. Offenses Penalties Remedies Limitations.

(a) (1) (A) A person, including an enrollee, recipient, or applicant, commits an offense who knowingly obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement, representation, or impersonation, or by concealment of any material fact, or by any other fraudulent means, or in any manner not authorized by any rule, regulation, or statute governing TennCare:

(i) Medical assistance benefits or any assistance provided pursuant to any rule, regulation, procedure, or statute governing TennCare to which such person is not entitled, or of a greater value than that to which such person is authorized;

(ii) Benefits by knowingly making a willfully false statement, or concealing a material fact relating to personal or household income, thereby resulting in the assessment of a lower monthly premium than the person would be required to pay if not for the false statement or concealment of a material fact; or

(iii) Controlled substance benefits by knowingly, willfully and with the intent to deceive, failing to disclose to a physician, nurse practitioner, ancillary staff, or other health care provider from whom the person obtains a controlled substance, or a prescription for a controlled substance, that the person has received either the same controlled substance or a prescription for the same controlled substance, or a controlled substance of similar therapeutic use or a prescription for a controlled substance of similar therapeutic use, from another practitioner within the previous thirty (30) days and the person used TennCare to pay for either the clinical visit or for payment of the controlled substances.

(B) An offense under subdivision (a)(1)(A) is a Class E felony.

(2) (A) A person, firm, corporation, partnership or any other entity, including a vendor, other than an enrollee, recipient, or applicant, commits an offense who knowingly obtains, or attempts to obtain, or aids or abets any person or entity to obtain, by means of a willfully false statement, report, representation, claim or impersonation, or by concealment of any material fact, or by any other fraudulent means, including knowingly presenting or causing to be presented to TennCare or any of its contractors, subcontractors or vendors a false or fraudulent claim for payment or approval, or in any manner not authorized by any rule, regulation, procedure, or statute governing TennCare, medical assistance payments provided pursuant to any rule, regulation, procedure, or statute governing TennCare to which the person or entity is not entitled, or of a greater value than that to which the person or entity is authorized. For purposes of this subsection (a), attempts to obtain includes making or presenting to any person a claim for any payment

under any rule, regulation, procedure, or statute governing TennCare, knowing the claim to be false, fictitious or fraudulent.

(B) An offense under subdivision (a)(2)(A) is a Class D felony unless the value of the property or services obtained meets the threshold set for a Class B or Class C offense under § 39-14-105, in which case the appropriate higher class shall apply. In addition to any other penalty, a sentence that includes a fine, when imposed upon an entity or upon a person for actions benefiting an entity, shall include the corporation fine specified in § 40-35-111.

(3) (A) A person, firm, corporation, partnership or any other entity commits an offense when providing a willfully false statement regarding another's medical condition or eligibility for insurance, to aid or abet another in obtaining or attempting to obtain medical assistance payments, medical assistance benefits or any assistance provided under any rule, regulation, procedure, or statute governing TennCare to which the person is not entitled or to a greater value than that to which such person is authorized. For purposes of this subsection (a), attempting to obtain includes making or presenting to any person a claim for any payment under any rule, regulation, procedure, or statute governing TennCare, knowing such claim to be false, fictitious or fraudulent.

(B) An offense under subdivision (a)(3)(A) is a Class D felony unless the value of the property or services obtained meets the threshold set for a Class B or Class C offense under § 39-14-105, in which case the appropriate higher class shall apply. In addition to any other penalty, a sentence that includes a fine, when imposed upon an entity or upon a person for actions benefiting an entity, shall include the corporation fine specified in § 40-35-111.

(4) Any person, firm, corporation, partnership or other entity is guilty of a Class D felony that, in connection with the investigation of a violation of offenses set forth in this section, knowingly and willfully:

(A) Falsifies, conceals or omits by any trick, scheme, artifice, or device a material fact;

(B) Makes any materially false, fictitious or fraudulent statement or representation; or

(C) Makes or uses any materially false writing or document.

(b) In addition to any other penalties provided for any person, firm, corporation, partnership or other entity under subsection (a), the court shall also:

(1) (A) Order restitution to TennCare in the greater of the total amount of all medical assistance payments made to all providers, or the total amount of all payments to a managed care entity, related to the services underlying the offense; and

(B) Report the person or entity to the appropriate professional licensure board or the department of commerce and insurance for disciplinary action.

(2) In addition to any other penalties provided under this section, the court may also, to the full extent permitted by federal law and the TennCare waiver as interpreted by the CMS, order any such person or entity disqualified from participation in the medical assistance program; such disqualification may also apply to any person who is convicted of a criminal offense involving the selling of prescription drugs obtained through the TennCare program. Any person or entity disqualified from participation in the medical assistance program shall make restitution in the total amount of the medical assistance or underpayment which forms the basis for the conviction before such person or entity can re-enroll in the TennCare program.

(3) A subsequent denial of eligibility or denial of a claim for payment does not, of itself, establish proof of falsity of a statement, representation, report or claim for payment under subsection (a).

(c) Nothing in this section shall be construed as prohibiting a person or entity violating the provisions of this section from being prosecuted for theft of property or services under title 39, part 14.

(d) In addition to any other remedy available, including those provided in this section, the state may recover from any person or such person's estate, or from a firm, corporation, partnership or other entity, including a vendor, the amount of medical assistance benefits or payments improperly paid as a result of fraudulent means or actions not authorized by any rule, regulation, procedure, or statute governing TennCare.

(e) Notwithstanding any other provision of law to the contrary, prosecutions for violations of this section shall be commenced within four (4) years after the commission of the offense.

[Acts 2004, ch. 784, § 1; 2007, ch. 103, § 1; 2007, ch. 458, §§ 1, 2; 2008, ch. 1139, § 1.]

- See more at: <http://statutes.laws.com/tennessee/title-71/chapter-5/part-26/71-5-2601#sthash.DQVnkn6E.dpuf>

2010 Tennessee Code

Title 40 - Criminal Procedure

Chapter 30 - Post-Conviction Procedure

Part 1 - General Provisions

40-30-102 - When prisoners may petition for post-conviction relief.

40-30-102. When prisoners may petition for post-conviction relief.

(a) Except as provided in subsections (b) and (c), a person in custody under a sentence of a court of this state must petition for post-conviction relief under this part within one (1) year of the date

of the final action of the highest state appellate court to which an appeal is taken or, if no appeal is taken, within one (1) year of the date on which the judgment became final, or consideration of the petition shall be barred. The statute of limitations shall not be tolled for any reason, including any tolling or saving provision otherwise available at law or equity. Time is of the essence of the right to file a petition for post-conviction relief or motion to reopen established by this chapter, and the one-year limitations period is an element of the right to file the action and is a condition upon its exercise. Except as specifically provided in subsections (b) and (c), the right to file a petition for post-conviction relief or a motion to reopen under this chapter shall be extinguished upon the expiration of the limitations period.

(b) No court shall have jurisdiction to consider a petition filed after the expiration of the limitations period unless:

(1) The claim in the petition is based upon a final ruling of an appellate court establishing a constitutional right that was not recognized as existing at the time of trial, if retrospective application of that right is required. The petition must be filed within one (1) year of the ruling of the highest state appellate court or the United States supreme court establishing a constitutional right that was not recognized as existing at the time of trial;

(2) The claim in the petition is based upon new scientific evidence establishing that the petitioner is actually innocent of the offense or offenses for which the petitioner was convicted; or

(3) The claim asserted in the petition seeks relief from a sentence that was enhanced because of a previous conviction and the conviction in the case in which the claim is asserted was not a guilty plea with an agreed sentence, and the previous conviction has subsequently been held to be invalid, in which case the petition must be filed within one (1) year of the finality of the ruling holding the previous conviction to be invalid.

(c) This part contemplates the filing of only one (1) petition for post-conviction relief. In no event may more than one (1) petition for post-conviction relief be filed attacking a single judgment. If a prior petition has been filed which was resolved on the merits by a court of competent jurisdiction, any second or subsequent petition shall be summarily dismissed. A petitioner may move to reopen a post-conviction proceeding that has been concluded, under the limited circumstances set out in § 40-30-117.

[Acts 1995, ch. 207, § 1; 1996, ch. 995, §§ 1-3; T.C.A. § 40-30-202.]