

**205.8461 Unlawful referral practices of provider -- Penalties.**

- (1) Except as otherwise provided in KRS 205.510 to 205.630, no provider shall knowingly solicit, receive, or offer any remuneration (including any kickback, bribe, or rebate) for furnishing medical assistance benefits or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made pursuant to Title XIX of the Social Security Act.
- (2)
  - (a) No provider shall knowingly make, offer, or receive a payment, a rebate of a fee, or a charge for referring a recipient to another provider for furnishing of benefits.
  - (b) Any conduct or activity which does not violate or which is protected under the provisions of 42 U.S.C. sec. 1395nn or 42 U.S.C. sec. 1320A-7b(b), as amended, or federal regulations promulgated under those statutes, shall not be deemed to violate the provisions of KRS 205.8451 to 205.8483, and the conduct or activity shall be accorded the same protections allowed under federal law and regulation.
- (3) Any person who violates subsection (1) or (2) of this section shall be guilty of a Class A misdemeanor unless the combination or aggregation of offenses is valued at three hundred dollars (\$300) or more, in which case it shall be a Class D felony. In addition to any other penalty authorized by law, any person who violates the provisions of subsection (2)(a) of this section shall not be entitled to bill or collect from the recipient or any third-party payor and shall repay any payments due the Commonwealth for services provided which were related to the referral.

**Effective:** July 15, 1994

**History:** Created 1994 Ky. Acts ch. 96, sec. 6, effective July 15, 1994; and ch. 316, sec. 6, effective July 15, 1994.

**Legislative Research Commission Note (7/15/94).** This statute was enacted by identical sections in two bills (1994 Ky. Acts chs. 96 & 316) which have been codified together.