



CONNECTICUT PHARMACISTS ASSOCIATION

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Statement
Before the General Assembly's
Committee on Human Services

Tuesday
March 6, 2007

Re: HB 7289: An Act Concerning Audits by the Department of Social Services

Good morning Rep. Villano and Sen. Harris. My name is Margherita Giuliano. I am a pharmacist and the Executive Vice President of the Connecticut Pharmacists Association. The Connecticut Pharmacists Association is a professional organization representing approximately 1,000 pharmacists in the state. I am submitting testimony on HB 7289: An Act Concerning Audits by the Department of Social Services.

The Connecticut Pharmacists Association was the lead organization in spearheading audit reform within the Department of Social Services. Our intent was to provide relief to our pharmacies that were taking an unfair financial hit through the department's practice of extrapolation. New legislation that was passed in 2005 helped many providers. However, the inclusion of section (d)3(C) in current law, which allows extrapolation when "the value of the claims in aggregate exceeds one hundred fifty thousand dollars on an annual basis" virtually excludes every pharmacy in this state.

Most audits reveal clerical errors that are performed by part-time clerks who handle the paperwork. In those rare instances where there appears to be fraudulent activity, a complete investigation is warranted and maximum penalties should be levied. The Connecticut Pharmacists Association supports efforts by the state to combat fraud. However, to punish innocent providers seeking to help the poor in this program is unconscionable.

Therefore, we would like to add a Section 2 to this bill which would replace subsection 17b-99(d) with the following language:

Section 2: Subsection 17b-99(d) is repealed and replaced with: *(effective from passage)*

(d) The Commissioner of Social Services, or any entity with whom the commissioner contracts, for the purpose of conducting an audit of a service provider that participates as provider of services in a program operated or administered by the department pursuant to this chapter or chapter 319t, 319v, 319y or 319ff, shall conduct any such audit in accordance with the provisions of this subsection. For purposes of this subsection "provider" means a person, public agency, private agency or proprietary agency that is licensed, certified or otherwise approved by the commissioner to supply services authorized by the programs set forth in said chapters.

(1) Not less than thirty days prior to the commencement of any such audit, the commissioner, or any entity with whom the commissioner contracts to conduct an audit of a participating provider, shall provide written notification of the audit to such provider, unless the commissioner, or any entity with whom the commissioner contracts to conduct an audit of a participating provider makes a good faith determination that (A) the health or safety of a recipient of services is at risk; or (B) the provider is engaging in vendor fraud.

(2) Any clerical error, including, but not limited to, recordkeeping, typographical, scrivener's or computer error, discovered in a record or document produced for any such audit, shall not of itself constitute a wilful



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violation of program rules unless proof of intent to commit fraud or otherwise violate program rules is established.

(3) A finding of overpayment or underpayment to a provider in a program operated or administered by the department pursuant to this chapter or chapter 319t, 319v, 319y or 319ff, shall not be based on extrapolated projections unless (A) there is a sustained or high level of payment error involving the provider, (B) documented educational intervention has failed to correct the level of payment error[, or (C) **the value of the claims in aggregate exceeds one hundred fifty thousand dollars on an annual basis.**]

(4) A provider, in complying with the requirements of any such audit, shall be allowed not less than thirty days to provide documentation in connection with any discrepancy discovered and brought to the attention of such provider in the course of any such audit.

(5) The commissioner, or any entity with whom the commissioner contracts, for the purpose of conducting an audit of a provider of any of the programs operated or administered by the department pursuant to this chapter or chapter 319t, 319v, 319y or 319ff, shall produce a preliminary written report concerning any audit conducted pursuant to this subsection, and such preliminary report shall be provided to the provider that was the subject of the audit, not more than sixty days after the conclusion of such audit.

(6) The commissioner, or any entity with whom the commissioner contracts, for the purpose of conducting an audit of a provider of any of the programs operated or administered by the department pursuant to this chapter or chapter 319t, 319v, 319y or 319ff, shall, following the issuance of the preliminary report pursuant to subdivision (5) of this subsection, hold an exit conference with any provider that was the subject of any audit pursuant to this subsection for the purpose of discussing the preliminary report.

(7) The commissioner, or any entity with whom the commissioner contracts, for the purpose of conducting an audit of a service provider, shall produce a final written report concerning any audit conducted pursuant to this subsection. Such final written report shall be provided to the provider that was the subject of the audit, not more than sixty days after the date of the exit conference conducted pursuant to subdivision (6) of this subsection unless the commissioner, or any entity with whom the commissioner contracts, for the purpose of conducting an audit of a service provider, agree to a later date or there are other referrals or investigations pending concerning the provider.

(8) Any provider aggrieved by a decision contained in a final written report issued pursuant to subdivision (7) of this subsection, may, not later than thirty days after the receipt of the final report, request, in writing, a review on all items of aggrievement. Such request shall contain a detailed written description of each specific item of aggrievement. The designee of the commissioner who presides over the review shall be impartial and shall not be an employee of the Department of Social Services Office of Quality Assurance or an employee of an entity with whom the commissioner contracts for the purpose of conducting an audit of a service provider.

(9) The provisions of this subsection shall not apply to any audit conducted by the Medicaid Fraud Control Unit established within the Office of the Chief State's Attorney.