
OLR Bill Analysis

sHB 6357 (as amended by House "A") *

AN ACT CONCERNING ADMINISTRATIVE HEARINGS UNDER THE MEDICAID ELECTRONIC HEALTH RECORD INCENTIVE PROGRAM.

SUMMARY:

Currently, the Uniform Administrative Procedure Act (UAPA) requires the Department of Social Services (DSS) to send declaratory rulings and final agency decisions by certified or registered mail, return receipt requested. Under the bill, other acceptable methods of confirming receipt are: mail, electronic, and digital methods and all methods identified by the U.S. Postal Service. This change applies to all types of administrative decisions, not just those issued under the bill.

This bill also requires the DSS commissioner, in accordance with a provision in the federal American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5 §4201), to develop and implement a Medicaid health information technology plan. She must also establish a Medicaid health record incentive program to provide incentives for qualifying hospitals and health care providers that adopt and meaningfully use electronic health records to improve patient health and the quality and efficiency of health care service delivery.

Under the bill, providers who are aggrieved by certain incentive program decisions are entitled to an initial review by the DSS commissioner. If still not satisfied, they may request a contested case hearing governed by the UAPA.

Current law requires DSS to send these declaratory rulings and final agency decisions by certified or registered mail, return receipt requested. Under the bill, he may use any of the methods described above.

EFFECTIVE DATE: Upon passage

*House Amendment "A" adds definitions and permits DSS to notify parties of decisions by means other than registered or certified mail.

DEFINITIONS

Under the bill, a "hospital" is an establishment for the lodging, care, and treatment of persons suffering from disease or other abnormal physical or mental conditions. It includes inpatient psychiatric services in general hospitals.

"Other health care providers" are persons, corporations, limited liability companies, organizations, partnerships, firms, associations, facilities, or institutions that are state-licensed or certified to provide health care services that contract with DSS to provide such services to Medicaid recipients.

ARRA

ARRA § 4201 provides 100% federal matching funds to states for incentive payments to eligible Medicaid providers who adopt, implement, upgrade, and meaningfully use certified electronic health record technology. It provides a 90% federal match for related state administrative expenses. One eligibility requirement is that a state provide a contested case hearing to resolve disputes between providers and the state Medicaid agency (in this case, DSS).

ADMINISTRATIVE HEARINGS ON INCENTIVE PROGRAM GRIEVANCES

The issues that may be decided in contested case hearings are the provider's:

1. eligibility for incentive payments;
2. incentive payment amounts;
3. demonstration of adopting, implementing, or upgrading an electronic health record; and
4. fulfillment of meaningful use criteria.

BACKGROUND

Related Federal Law — Reasonable Use

The 2009 federal “Health Information Technology for Economic and Clinical Care Act,” will provide incentive payments under Medicaid and Medicare to eligible providers and hospitals for the “meaningful use” of certified electronic health record (EHR) technology. The payment program begins in 2011. These incentive programs are designed to support providers making the transition to health information technology and encourage the use of EHRs to help improve patient health care delivery and outcomes.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute
Yea 18 Nay 0 (03/22/2011)

Judiciary Committee

Joint Favorable
Yea 36 Nay 0 (04/26/2011)