



General Assembly

Amendment

January Session, 2011

LCO No. 7140

HB0655207140HDO

Offered by:

REP. TERCYAK, 26th Dist.

SEN. MUSTO, 22nd Dist.

To: Subst. House Bill No. 6552

File No. 495

Cal. No. 296

**"AN ACT CONCERNING THE TRANSFER AND DISCHARGE OF
NURSING FACILITY RESIDENTS."**

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- 1 In line 29, after "means" insert "a situation in which"
 - 2 In line 97, strike "ten" and insert "twenty" in lieu thereof
 - 3 In line 100, strike "ten-day" and insert "twenty-day" in lieu thereof
 - 4 Strike line 190 in its entirety and insert the following in lieu thereof:
5 "by requesting a hearing in writing [within ten] not later than twenty
6 days [of]"
 - 7 In line 191, strike "[within] not later than ten" and insert in lieu
8 thereof "[within ten] not later than twenty"
 - 9 In line 194, strike "ten-day" and insert "twenty-day" in lieu thereof
 - 10 In line 243, strike "shall" and insert "may" in lieu thereof

11 In line 405, strike "ten" and insert "twenty" in lieu thereof

12 After the last section, add the following and renumber sections and
13 internal references accordingly:

14 "Sec. 501. Subsection (d) of section 17b-99 of the general statutes is
15 repealed and the following is substituted in lieu thereof (*Effective July*
16 *1, 2011*):

17 (d) The Commissioner of Social Services, or any entity with whom
18 the commissioner contracts, for the purpose of conducting an audit of
19 a service provider that participates as provider of services in a
20 program operated or administered by the department pursuant to this
21 chapter or chapter 319t, 319v, 319y or 319ff, except a service provider
22 for which rates are established pursuant to section 17b-340, shall
23 conduct any such audit in accordance with the provisions of this
24 subsection. For purposes of this subsection "provider" means a person,
25 public agency, private agency or proprietary agency that is licensed,
26 certified or otherwise approved by the commissioner to supply
27 services authorized by the programs set forth in said chapters.

28 (1) Not less than thirty days prior to the commencement of any such
29 audit, the commissioner, or any entity with whom the commissioner
30 contracts to conduct an audit of a participating provider, shall provide
31 written notification of the audit to such provider, unless the
32 commissioner, or any entity with whom the commissioner contracts to
33 conduct an audit of a participating provider makes a good faith
34 determination that (A) the health or safety of a recipient of services is
35 at risk; or (B) the provider is engaging in vendor fraud. A copy of the
36 regulations established pursuant to subdivision (11) of this subsection
37 shall be appended to such notification.

38 (2) Any clerical error, including, but not limited to, recordkeeping,
39 typographical, scrivener's or computer error, discovered in a record or
40 document produced for any such audit, shall not of itself constitute a
41 wilful violation of program rules unless proof of intent to commit
42 fraud or otherwise violate program rules is established.

43 (3) A finding of overpayment or underpayment to a provider in a
44 program operated or administered by the department pursuant to this
45 chapter or chapter 319t, 319v, 319y or 319ff, except a provider for
46 which rates are established pursuant to section 17b-340, shall not be
47 based on extrapolated projections unless (A) there is a sustained or
48 high level of payment error involving the provider, (B) documented
49 educational intervention has failed to correct the level of payment
50 error, or (C) the value of the claims in aggregate exceeds one hundred
51 fifty thousand dollars on an annual basis.

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

57 (5) The commissioner, or any entity with whom the commissioner
58 contracts, for the purpose of conducting an audit of a provider of any
59 of the programs operated or administered by the department pursuant
60 to this chapter or chapter 319t, 319v, 319y or 319ff, except a service
61 provider for which rates are established pursuant to section 17b-340,
62 shall produce a preliminary written report concerning any audit
63 conducted pursuant to this subsection, and such preliminary report
64 shall be provided to the provider that was the subject of the audit, not
65 later than sixty days after the conclusion of such audit.

66 (6) The commissioner, or any entity with whom the commissioner
67 contracts, for the purpose of conducting an audit of a provider of any
68 of the programs operated or administered by the department pursuant
69 to this chapter or chapter 319t, 319v, 319y or 319ff, except a service
70 provider for which rates are established pursuant to section 17b-340,
71 shall, following the issuance of the preliminary report pursuant to
72 subdivision (5) of this subsection, hold an exit conference with any
73 provider that was the subject of any audit pursuant to this subsection
74 for the purpose of discussing the preliminary report.

75 (7) The commissioner, or any entity with which the commissioner
76 contracts, for the purpose of conducting an audit of a service provider,
77 shall produce a final written report concerning any audit conducted
78 pursuant to this subsection. Such final written report shall be provided
79 to the provider that was the subject of the audit not later than sixty
80 days after the date of the exit conference conducted pursuant to
81 subdivision (6) of this subsection, unless the commissioner, or any
82 entity with which the commissioner contracts, for the purpose of
83 conducting an audit of a service provider, agrees to a later date or
84 there are other referrals or investigations pending concerning the
85 provider.

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

98 (9) [The] A provider [shall have the right to] may appeal a final
99 decision issued pursuant to subdivision (8) of this section to the
100 Superior Court in accordance with the provisions of chapter 54.

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

104 (11) The commissioner shall adopt regulations, in accordance with
105 the provisions of chapter 54, to carry out the provisions of this
106 subsection and to ensure the fairness of the audit process, including,

107 but not limited to, the sampling methodologies associated with the
108 process."