



General Assembly

Substitute Bill No. 5500

February Session, 2014



AN ACT CONCERNING PROVIDER AUDITS UNDER THE MEDICAID PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 17b-99 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2014*):

4 (d) The Commissioner of Social Services, or any entity with which
5 the commissioner contracts, for the purpose of conducting an audit of
6 a service provider that participates as a provider of services in a
7 program operated or administered by the department pursuant to this
8 chapter or chapter 319t, 319v, 319y or 319ff, except a service provider
9 for which rates are established pursuant to section 17b-340, shall
10 conduct any such audit in accordance with the provisions of this
11 subsection. For purposes of this subsection "extrapolation" means the
12 determination of an unknown value by projecting the results of the
13 review of a sample of the universe from which the sample was drawn;
14 "medical necessity" has the same meaning as provided in section 17b-
15 259b; "provider" means a person, public agency, private agency or
16 proprietary agency that is licensed, certified or otherwise approved by
17 the commissioner to supply services authorized by the programs set
18 forth in said chapters; and "universe" means a defined population of
19 claims submitted by a provider during a specific time period.

20 (1) The Commissioner of Social Services, or any entity with which
21 the commissioner contracts for the purpose of conducting an audit of a
22 service provider pursuant to this subsection, shall have access during a
23 provider audit only to information relevant to the audit, including, but
24 not limited to, information concerning: (A) Services and goods
25 provided and billed to the Medicaid program during the time period
26 covered by the audit, (B) medical necessity of such services and goods
27 provided, and (C) whether the provider billed responsible third parties
28 for such services or goods provided. Nothing in this subsection shall
29 be construed as authorizing access to any information that is
30 confidential or prohibited from disclosure by law. Not less than thirty
31 days prior to the commencement of any such audit, the commissioner,
32 or any entity with which the commissioner contracts to conduct an
33 audit of a participating provider, shall provide written notification of
34 the audit to such provider, unless the commissioner, or any entity with
35 which the commissioner contracts to conduct an audit of a
36 participating provider makes a good faith determination that [(A)] the
37 health or safety of a recipient of services is at risk [;] or [(B)] the
38 provider is engaging in vendor fraud. A copy of the regulations
39 established pursuant to subdivision (11) of this subsection shall be
40 appended to such notification.

41 (2) Any clerical error, including, but not limited to, recordkeeping,
42 typographical, scrivener's or computer error, discovered in a record or
43 document produced for any such audit shall not of itself constitute a
44 wilful violation of program rules unless proof of intent to commit
45 fraud or otherwise violate program rules is established. In determining
46 which providers shall be subject to audits, the Commissioner of Social
47 Services shall first select providers with a higher compliance risk based
48 on past audits or errors.

49 (3) A finding of overpayment or underpayment to a provider in a
50 program operated or administered by the department pursuant to this
51 chapter or chapter 319t, 319v, 319y or 319ff, except a provider for
52 which rates are established pursuant to section 17b-340, shall not be

53 based on extrapolated projections unless (A) there is a sustained or
54 high level of payment error involving the provider, or (B) documented
55 educational intervention has failed to correct the level of payment
56 error involving the provider. [, or (C) the value of the claims in
57 aggregate exceeds one hundred fifty thousand dollars on an annual
58 basis.]

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

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

73 (6) The commissioner, or any entity with which the commissioner
74 contracts, for the purpose of conducting an audit of a provider of any
75 of the programs operated or administered by the department pursuant
76 to this chapter or chapter 319t, 319v, 319y or 319ff, except a service
77 provider for which rates are established pursuant to section 17b-340,
78 shall, following the issuance of the preliminary report pursuant to
79 subdivision (5) of this subsection, hold an exit conference with any
80 provider that was the subject of any audit pursuant to this subsection
81 for the purpose of discussing the preliminary report. Such provider
82 may present evidence at such exit conference refuting findings in the
83 preliminary report.

84 (7) The commissioner, or any entity with which the commissioner

85 contracts, for the purpose of conducting an audit of a service provider,
86 shall produce a final written report concerning any audit conducted
87 pursuant to this subsection. Such final written report shall be provided
88 to the provider that was the subject of the audit not later than sixty
89 days after the date of the exit conference conducted pursuant to
90 subdivision (6) of this subsection, unless the commissioner, or any
91 entity with which the commissioner contracts, for the purpose of
92 conducting an audit of a service provider, agrees to a later date or
93 there are other referrals or investigations pending concerning the
94 provider.

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

107 (9) A provider may appeal a final decision issued pursuant to
108 subdivision (8) of this subsection to the Superior Court in accordance
109 with the provisions of chapter 54.

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

113 (11) The commissioner shall adopt regulations, in accordance with
114 the provisions of chapter 54, to carry out the provisions of this
115 subsection and to ensure the fairness of the audit process, including,
116 but not limited to, the sampling methodologies associated with the

117 process. The commissioner shall provide free training to providers on
118 how to enter claims to avoid clerical errors and shall post information
119 on the department's Internet web site concerning the auditing process
120 and methods to avoid clerical errors. Not later than October 1, 2014,
121 the commissioner shall (A) convene a meeting with representatives of
122 the dental profession concerning billing, record-keeping procedures
123 and standards of such profession and any modifications in the
124 auditing process concerning dental providers that may be necessary
125 and federally permissible, and (B) ensure that the Department of Social
126 Services, or any entity with which the commissioner contracts to
127 conduct an audit pursuant to this subsection, has on staff or consults
128 with a medical or dental professional who is experienced in the
129 treatment, billing and coding procedures used by the provider subject
130 to audit during such audit.

This act shall take effect as follows and shall amend the following sections:

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| Section 1 | July 1, 2014 | 17b-99(d) |
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Statement of Legislative Commissioners:

In section 1(d)(3)(B), the phrase "involving the provider" was added for consistency with other language in the subdivision.

APP *Joint Favorable Subst.*