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## **OLR Bill Analysis**

**sHB 5500 (as amended by House "A")\***

### ***AN ACT CONCERNING PROVIDER AUDITS UNDER THE MEDICAID PROGRAM.***

#### **SUMMARY:**

This bill makes several changes to Department of Social Services' (DSS) processes for auditing (1) Medicaid providers and (2) facilities that receive Medicaid or other state payments (including nursing homes, residential care homes, and intermediate care facilities for people with intellectual disabilities). Specifically, it (1) limits the circumstances in which DSS may extrapolate audited claims and (2) allows an audited provider or facility to present evidence to the commissioner or an auditor to refute the audit's findings. For auditing purposes, it also requires DSS and DSS-contracted auditors to have on staff or consult with, as needed, health care providers experienced in relevant treatment, billing, and coding procedures.

The bill requires the DSS commissioner to adopt facility audit regulations to ensure fairness in the audit process, including associated sampling methodologies. The law already requires the commissioner to adopt such regulations for provider audits.

The commissioner must also establish and publish on the department website audit protocols to help providers and facilities comply with state and federal Medicaid laws and regulations. The audit protocols may not be relied upon to create a substantive or procedural right or benefit enforceable at law or in equity by anyone, including a corporation.

The bill also (1) requires DSS to provide free training to providers and facilities to help them avoid clerical errors and (2) imposes reporting requirements on DSS pertaining to the revised audit protocols and procedures.

\*House Amendment "A" principally:

1. increases, rather than eliminates, the minimum aggregate value of claims on which DSS may use extrapolation to determine overpayment or underpayment;
2. requires DSS to establish and post audit protocols and report to the Human Services Committee on its progress in implementing the bill's provisions;
3. eliminates the bill's (a) restrictions on the DSS commissioner's and auditors' access to information during a provider audit and (b) requirement that DSS meet with dental profession representatives about audit process modifications; and
4. allows, instead of requires, DSS to consider compliance history when determining which providers to audit.

EFFECTIVE DATE: July 1, 2014

## **CLAIM EXTRAPOLATION**

### ***Definitions***

Under the bill:

1. "extrapolation" means determination of an unknown value by projecting the results of the review of a sample to the universe from which the sample was drawn and
2. "universe" means a defined population of claims submitted by a provider during a specific time period.

### ***Extrapolation Use***

Current law allows DSS or a DSS-contracted auditor to base a finding of provider or facility overpayment or underpayment on extrapolated projections if the claims' aggregate value exceeds \$150,000 on an annual basis. The bill limits the circumstances in which DSS or an auditor may use extrapolation by increasing the minimum aggregate value of claims on which such method may be used to \$200,000 on an annual basis.

## **AUDIT PROCESS REVISIONS**

The bill allows the DSS commissioner, when determining which providers and facilities to audit, to consider a provider's or facility's compliance history in addition to other audit criteria.

The bill also requires the DSS commissioner to ensure that DSS or any DSS-contracted auditor, during an audit, has on staff or consults with, as needed, a licensed health professional experienced in the treatment, billing, and coding procedures of the provider or facility being audited.

By law, the DSS commissioner or any DSS-contracted auditor, after issuing a preliminary report, must hold an exit conference with an audited provider or facility to discuss the report. The bill allows the audited provider or facility to present evidence at the exit conference to refute the report's findings.

## **AUDIT PROTOCOLS**

### ***Provider Protocols***

The bill requires the DSS commissioner, by February 1, 2015, to establish and publish on the department website protocols to assist the Medicaid providers to develop programs to improve Medicaid state and federal law and regulation compliance. The commissioner must establish specific audit protocols for licensed home health agencies, drug and alcohol treatment centers, durable medical equipment, and the following types of services: (1) hospital outpatient, (2) physician and nursing, (3) dental, (4) behavioral health, (5) pharmaceutical, and (6) emergency and nonemergency medical transportation.

### ***Facility Protocols***

The bill requires the DSS commissioner, by April 1, 2015, to establish audit protocols to assist facilities subject to audit to develop programs to improve Medicaid state and federal law and regulation compliance. The commissioner must establish and publish on its website audit protocols for:

1. licensed chronic and convalescent nursing homes and associated

- chronic disease hospitals,
2. rest homes with nursing supervision,
  3. licensed residential care homes, and
  4. licensed and certified intermediate care facilities for people with intellectual disabilities.

### **PROVIDER AND FACILITY TRAINING**

The bill requires DSS to (1) help facilities and providers avoid clerical errors by providing free training to (a) providers on how to enter claims and (b) facilities on cost report preparation and (2) post information on its website about the auditing process and ways to avoid clerical errors.

### **DSS REPORTING REQUIREMENTS**

The bill requires the DSS commissioner to report to the Human Services Committee (1) by February 1, 2015 on the department's progress concerning the audit protocols and procedures and (2) by February 1, 2016 on their implementation.

### **COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute  
Yea 17 Nay 0 (03/20/2014)

Appropriations Committee

Joint Favorable Substitute  
Yea 44 Nay 0 (04/15/2014)