



STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE • HARTFORD, CONNECTICUT 06105

November 18, 2014

Senator Andres Ayala, Co-Chair
Representative Selim G. Noujaim, Co-Chair
Legislative Regulation Review Committee
State Capitol – Room 011
Hartford, CT 06106

Re: Regulation No. 2014-6 Regulation Regarding the Audit of Providers

Dear Senator Ayala and Representative Noujaim:

The Department of Social Services (the "Department") is submitting the attached substitute pages for the above-referenced regulation. We had inadvertently submitted technical changes to a prior draft of the regulation, which did not reflect changes made by Public Act 14-162,

The changes in these substitute pages are as follows:

- Section 17b-99(d)-2, Definitions, Page 2 - A grammatical change to the definition of "extrapolation" was made to be consistent with the language in Public Act 14-162.
- Section 17b-99(d)-4(b) – Conduct of the Audit Process, Page 4 – Added the following sentence to be consistent with Public Act 14-162: "In determining which providers to audit, the department may give consideration to the history of a provider's compliance."
- Section 17b-99(d)-4(k) – Conduct of the Audit Process, Page 6 – Added the following sentence to be consistent with Public Act 14-162: "The provider may present evidence at the exit conference to refute findings in the preliminary report."

Thank you for considering these substitute pages.

Sincerely,

A handwritten signature in cursive script that reads "Brenda Parrella".

Brenda Parrella
Agency Legal Director

- (6) “Commissioner’s designee” means a person who is impartial and is not an employee of the Department of Social Services Office of Quality Assurance or an employee of an entity with which the Commissioner contracts for the purpose of conducting an audit of a service provider;
- (7) “Common ownership” means a circumstance where the same individual, individuals, entity, or entities directly or indirectly own 5 percent or more total ownership of two or more entities. Individuals or entities with common ownership include, but are not limited to, parent corporations, direct and indirect subsidiaries, and brother or sister corporations;
- (8) “Control” means a circumstance where an individual, individuals, entity, or entities have power over or direct the behavior, action, or function of another individual, individuals, entity, or entities;
- (9) “Department” means the Department of Social Services or its agent;
- (10) “Document” or “record” means any data created by the provider in the ordinary course of business by or before the date of the submission of a claim to the department that concerns the claim or concerns the goods or services that were the subject of the claim. “Document” or “record” does not include any data created by the provider after the date of the submission of a claim, unless the department, in its discretion, finds such document or record reliable for the purpose of the department’s audit;
- (11) “Department program” means a program operated or administered by the department pursuant to chapters 319s, 319t, 319v, 319y or 319ff of the Connecticut General Statutes, except a program for which rates are established pursuant to section 17b-340 of the Connecticut General Statutes;
- (12) “Exit conference” means a meeting, as required by section 17b-99(d)(6) of the Connecticut General Statutes, between a provider and the department to discuss the department’s preliminary written report of its audit of the provider;
- (13) “Extrapolation” means the determination of an unknown value by projecting the results of the review of a sample to the universe from which the sample was drawn;
- (14) “Goods or services” means care or items that a provider furnishes to a client in accordance with all federal and state laws, policies and procedures, all provider enrollment agreement terms and all provider enrollment and, if applicable, reenrollment application terms;
- (15) “Medical necessity” or “medically necessary” has the same meaning as provided in section 17b-259b of the Connecticut General Statutes, as amended from time to time;
- (16) “Overpayment” means the amount of financial liability that the department determines is due to the department. An overpayment may be a singular amount, the sum of an aggregate of amounts, or an amount calculated through the use of extrapolation;
- (17) “Paid claim” means a claim that the department has paid;

Any finding of an underpayment or overpayment that is based upon an extrapolation shall be made in accordance with section 17b-99(d)(3) of the Connecticut General Statutes.

- (b) When the department performs an audit by reviewing a sample selection, the department shall review a sample selection that has been selected by using methods generally accepted by the professional auditing or accounting community for selecting statistically valid samples including, but not limited to, the methods set forth in subdivisions (1) to (8), inclusive, of this subsection. The department may select a sample selection by taking the following steps:
- (1) Identifying the provider;
 - (2) identifying the time period to be audited;
 - (3) identifying the goods or services or type of claim to be audited;
 - (4) identifying the sampling universe;
 - (5) identifying the sample unit;
 - (6) defining the sample design;
 - (7) defining the sample selection; and
 - (8) obtaining the sample selection to proceed with the audit.
- (c) When the department performs an audit by reviewing a sample selection, the department may calculate underpayments and overpayments by extrapolation methods generally accepted by the professional auditing or accounting community including, but not limited to, calculating the error rate based upon the value of the underpayments and overpayments in the sample and projecting that error rate to the sampling universe. Any finding of an underpayment or overpayment that is based upon an extrapolation shall be made in accordance with section 17b-99(d)(3) of the Connecticut General Statutes.
- (d) The department shall state in writing in the preliminary written report and final written report the sampling methodology and extrapolation methodology for the audit.

(NEW) Sec. 17b-99(d)-4. Conduct of the Audit Process

- (a) The department may audit any provider in any department program.
- (b) The department shall determine, in its discretion, which providers and periods of time to audit. In determining which providers to audit, the department may give consideration to the history of a provider's compliance.
- (c) The department shall determine, in its discretion, the frequency of audits for any particular provider.
- (d) The department shall, as required by subdivision (1) of subsection (d) of section 17b-99 of the Connecticut General Statutes, give providers timely written notice of audits.

- (14) the provider gave accurate and complete information to the department during the course of an audit; and
 - (15) other documents or items deemed relevant and necessary by the department are needed in order to complete the audit.
- (h) A clerical error may be considered as the basis for an overpayment or underpayment.
- (i) A provider shall have thirty days to provide documentation in connection with any discrepancy discovered and brought to the attention of the provider in the course of the audit. Upon a provider's request, the department may permit a provider more than thirty days to provide such documentation.
- (j) Not later than sixty days after the department determines that the preliminary fieldwork, review and analysis of the audit has concluded, the department shall produce a preliminary written report concerning the audit and provide said report to the audited provider.
- (k) After the department has provided the preliminary written report required by subsection (j) of this section to the provider, the department shall hold an exit conference with said provider for the purpose of discussing the preliminary written report. The provider may present evidence at the exit conference to refute findings in the preliminary report.
- (l) The department, or any entity with which the department contracts for the purpose of conducting an audit of a service provider, shall send the provider a final written report not later than sixty days after the date of the exit conference, unless the department, or any entity with which the department contracts for the purpose of conducting an audit of a service provider, agrees to a later date or there are other referrals or investigations pending concerning the provider.
- (m) The department may identify underpayments or overpayments based upon an audit of a provider's claims and may calculate underpayments or overpayments based upon extrapolation. Any finding of an underpayment or overpayment that is based upon an extrapolation shall be made in accordance with section 17b-99(d)(3) of the Connecticut General Statutes.

(NEW) Sec. 17b-99(d)-5. Review of Provider's Items of Aggrievement in Final Written Report

- (a) A provider aggrieved by a decision contained in a final written report issued pursuant to subsection (l) of section 17b-99(d)-4 of the Regulations of Connecticut State Agencies may, not later than thirty days after the receipt of the final written report, request, in writing, a review of all items of aggrievement. The scope of the review shall not include or consider facts or circumstances outside the audit and the final written report.
- (b) The provider's request for review shall be made in writing and, at a minimum, set forth a detailed written description of each specific item of aggrievement including:
- (1) The specific decision or decisions for which review is sought;
 - (2) any facts that were misapprehended or overlooked by the audit decision thereby causing aggrievement; and