



House of Representatives

General Assembly

File No. 468

January Session, 2025

House Bill No. 7105

House of Representatives, April 2, 2025

The Committee on Human Services reported through REP. GILCHREST of the 18th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING FORENSIC AUDITS CONDUCTED BY THE DEPARTMENT OF SOCIAL SERVICES.

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

1 Section 1. Section 17b-99a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) (1) For purposes of this section, (A) "extrapolation" means the
4 determination of an unknown value by projecting the results of the
5 review of a sample to the universe from which the sample was drawn,
6 (B) "facility" means any facility described in this subsection and for
7 which rates are established pursuant to section 17b-340 [, and] or 17b-
8 340d, (C) "universe" means a defined population of claims submitted by
9 a facility during a specific time period, and (D) "forensic audit" means
10 an examination of financial records for information or evidence that
11 may be used to determine compliance with applicable law.

12 (2) The Commissioner of Social Services shall conduct any audit,
13 including a forensic audit, of a licensed chronic and convalescent

14 nursing home, chronic disease hospital associated with a chronic and
15 convalescent nursing home, a rest home with nursing supervision, a
16 licensed residential care home, as defined in section 19a-490, and a
17 residential facility for persons with intellectual disability which is
18 licensed pursuant to section 17a-227 and certified to participate in the
19 Medicaid program as an intermediate care facility for individuals with
20 intellectual disabilities in accordance with the provisions of this section.

21 (b) Not less than thirty days prior to the commencement of any such
22 audit, the commissioner shall provide written notification of the audit
23 to such facility, unless the commissioner makes a good-faith
24 determination that (1) the health or safety of a recipient of services is at
25 risk; or (2) the facility is engaging in vendor fraud under sections 53a-
26 290 to 53a-296, inclusive.

27 (c) Any clerical error, including, but not limited to, recordkeeping,
28 typographical, scrivener's or computer error, discovered in a record or
29 document produced for any such audit, shall not of itself constitute a
30 wilful violation of the rules of a medical assistance program
31 administered by the Department of Social Services unless proof of intent
32 to commit fraud or otherwise violate program rules is established. In
33 determining which facilities shall be subject to audits, the Commissioner
34 of Social Services may give consideration to the history of a facility's
35 compliance in addition to other criteria used to select a facility for an
36 audit.

37 (d) A finding of overpayment or underpayment to such facility shall
38 not be based on extrapolation unless (1) there is a determination of
39 sustained or high level of payment error involving the facility, (2)
40 documented educational intervention has failed to correct the level of
41 payment error, or (3) the value of the claims in aggregate exceeds two
42 hundred thousand dollars on an annual basis.

43 (e) A facility, in complying with the requirements of any such audit,
44 shall be allowed not less than thirty days to provide documentation in
45 connection with any discrepancy discovered and brought to the
46 attention of such facility in the course of any such audit.

47 (f) The commissioner shall produce a preliminary written report
48 concerning any audit conducted pursuant to this section and such
49 preliminary report shall be provided to the facility that was the subject
50 of the audit not later than sixty days after the conclusion of such audit.

51 (g) The commissioner shall, following the issuance of the preliminary
52 report pursuant to subsection (f) of this section, hold an exit conference
53 with any facility that was the subject of any audit pursuant to this
54 subsection for the purpose of discussing the preliminary report. Such
55 facility may present evidence at such exit conference refuting findings
56 in the preliminary report.

57 (h) The commissioner shall produce a final written report concerning
58 any audit conducted pursuant to this subsection. Such final written
59 report shall be provided to the facility that was the subject of the audit
60 not later than sixty days after the date of the exit conference conducted
61 pursuant to subsection (g) of this section, unless the commissioner and
62 the facility agree to a later date or there are other referrals or
63 investigations pending concerning the facility.

64 (i) Any facility aggrieved by a final report issued pursuant to
65 subsection (h) of this section may request a rehearing. A rehearing shall
66 be held by the commissioner or the commissioner's designee, provided
67 a detailed written description of all items of aggrievement in the final
68 report is filed by the facility not later than ninety days following the date
69 of written notice of the commissioner's decision. The rehearing shall be
70 held not later than thirty days following the date of filing of the detailed
71 written description of each specific item of aggrievement. The
72 commissioner shall issue a final decision not later than sixty days
73 following the close of evidence or the date on which final briefs are filed,
74 whichever occurs later. Any items not resolved at such rehearing to the
75 satisfaction of the facility or the commissioner shall be submitted to
76 binding arbitration by an arbitration board consisting of one member
77 appointed by the facility, one member appointed by the commissioner
78 and one member appointed by the Chief Court Administrator from
79 among the retired judges of the Superior Court, which retired judge

80 shall be compensated for his services on such board in the same manner
81 as a state referee is compensated for his services under section 52-434.
82 The proceedings of the arbitration board and any decisions rendered by
83 such board shall be conducted in accordance with the provisions of the
84 Social Security Act, 42 USC 1396, as amended from time to time, and
85 chapter 54.

86 (j) The submission of any false or misleading fiscal information or
87 data to the commissioner shall be grounds for suspension of payments
88 by the state under sections 17b-239 to 17b-246, inclusive, and sections
89 17b-340 and 17b-343, in accordance with regulations adopted by the
90 commissioner. In addition, any person, including any corporation, who
91 knowingly makes or causes to be made any false or misleading
92 statement or who knowingly submits false or misleading fiscal
93 information or data on the forms approved by the commissioner shall
94 be guilty of a class D felony.

95 (k) The commissioner, or any agent authorized by the commissioner
96 to conduct any inquiry, investigation or hearing under the provisions of
97 this section, shall have power to administer oaths and take testimony
98 under oath relative to the matter of inquiry or investigation. At any
99 hearing ordered by the commissioner, the commissioner or such agent
100 having authority by law to issue such process may subpoena witnesses
101 and require the production of records, papers and documents pertinent
102 to such inquiry. If any person disobeys such process or, having
103 appeared in obedience thereto, refuses to answer any pertinent question
104 put to the person by the commissioner or the commissioner's authorized
105 agent or to produce any records and papers pursuant thereto, the
106 commissioner or the commissioner's agent may apply to the superior
107 court for the judicial district of Hartford or for the judicial district
108 wherein the person resides or wherein the business has been conducted,
109 or to any judge of such court if the same is not in session, setting forth
110 such disobedience to process or refusal to answer, and such court or
111 judge shall cite such person to appear before such court or judge to
112 answer such question or to produce such records and papers.

113 (l) The commissioner shall provide free training to facilities on the
114 preparation of cost reports to avoid clerical errors and shall post
115 information on the department's Internet web site concerning the
116 auditing process and methods to avoid clerical errors. Not later than
117 April 1, 2015, the commissioner shall establish audit protocols to assist
118 facilities subject to audit pursuant to this section in developing
119 programs to improve compliance with Medicaid requirements under
120 state and federal laws and regulations, provided audit protocols may
121 not be relied upon to create a substantive or procedural right or benefit
122 enforceable at law or in equity by any person, including a corporation.
123 The commissioner shall establish and publish on the department's
124 Internet web site audit protocols for: (1) Licensed chronic and
125 convalescent nursing homes, (2) chronic disease hospitals associated
126 with chronic and convalescent nursing homes, (3) rest homes with
127 nursing supervision, (4) licensed residential care homes, as defined in
128 section 19a-490, and (5) residential facilities for persons with intellectual
129 disability that are licensed pursuant to section 17a-227 and certified to
130 participate in the Medicaid program as intermediate care facilities for
131 individuals with intellectual disabilities. The commissioner shall ensure
132 that the Department of Social Services, or any entity with which the
133 commissioner contracts to conduct an audit pursuant to this section, has
134 on staff or consults with, as needed, licensed health professionals with
135 experience in treatment, billing and coding procedures used by the
136 facilities being audited pursuant to this section.

137 (m) (1) Notwithstanding the provisions of this section, the
138 commissioner shall not conduct a forensic audit of a facility unless the
139 commissioner (A) provides the facility with an opportunity to meet with
140 Department of Social Services representatives and respond to any
141 financial concerns identified by the commissioner, and (B) makes a good
142 faith determination that a forensic audit of such facility is necessary to
143 evaluate such financial concerns.

144 (2) If a facility receives a written request by the department to
145 cooperate and assist with a forensic audit, such facility shall provide the
146 cooperation and assistance requested by the department not more than

147 ten business days after the date the facility receives such request and
 148 shall ensure that all facility personnel, financial consultants and
 149 accountants fully cooperate and assist with a forensic audit as may be
 150 necessary, except no facility shall be required to divert facility personnel
 151 from residential care duties and responsibilities to cooperate and assist
 152 with such forensic audit. Any facility that fails to provide such
 153 cooperation and assistance shall be subject to a civil monetary penalty
 154 not to exceed one thousand dollars per business day for each business
 155 day that the facility fails to comply with such written request. A facility
 156 may request a fair hearing on the assessment of any such civil monetary
 157 penalty as an aggrieved person pursuant to section 17b-60.

158 (3) A facility may be liable to the Department of Social Services for
 159 the costs of a forensic audit of a facility identified by the department as
 160 experiencing a serious financial loss, including, but not limited to, any
 161 reports or subsequent testimony related thereto, provided liability for
 162 such costs shall not exceed one hundred thousand dollars. Such costs,
 163 not to exceed one hundred thousand dollars, may be assessed against
 164 any single facility or in the aggregate if more than one facility is subject
 165 to a particular forensic audit.

166 (n) The Department of Social Services may recover (1) subject to the
 167 provisions of subdivision (3) of subsection (m) of this section, the costs
 168 of any forensic audit conducted pursuant to the provisions of this
 169 section from a facility if such forensic audit identifies material issues
 170 with a facility's internal financial management or the integrity of a
 171 facility's financial statements, or (2) civil monetary penalties assessed
 172 against a facility in accordance with subdivision (2) of subsection (m) of
 173 this section through recoupment of such forensic audit costs or civil
 174 monetary penalties against funds that would otherwise be paid to such
 175 facility for services rendered to recipients of assistance under the
 176 Medicaid program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17b-99a

HS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 26 \$	FY 27 \$
Social Services, Dept.	GF - Potential	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill may result in a fiscal impact to the Department of Social Services (DSS) associated with forensic audits and related potential civil monetary penalties on certain facilities. The bill specifies that audited facilities would be liable for forensic audit costs, up to \$100,000 under certain circumstances. The bill also subjects facilities to civil penalties of up to \$1,000 for each day a facility fails to comply with a DSS request related to a forensic audit. DSS may (1) recover such costs and penalties through reduced Medicaid payments otherwise due to impacted facilities, or (2) receive reimbursement for audit costs and collect civil penalties and reflect an associated revenue gain.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to forensic audits and any monetary penalties imposed.

OLR Bill Analysis**HB 7105*****AN ACT CONCERNING FORENSIC AUDITS CONDUCTED BY THE
DEPARTMENT OF SOCIAL SERVICES.*****SUMMARY**

This bill explicitly allows the Department of Social Services (DSS) commissioner to conduct forensic audits of certain facilities and outlines procedures for doing so. The bill requires facilities to assist with forensic audits and subjects them to a civil monetary penalty for failing to do so. In certain situations, the bill holds facilities liable for the costs of forensic audits and allows DSS to withhold Medicaid funds to recoup these costs along with the civil penalties. Under the bill, “forensic audit” means an examination of financial records for information or evidence used to determine compliance with applicable law.

The bill also makes a technical and conforming change.

EFFECTIVE DATE: Upon passage

AUTHORIZATION TO CONDUCT FORENSIC AUDITS

Under the bill, the DSS commissioner may conduct a forensic audit of licensed chronic and convalescent nursing homes and their associated chronic disease hospitals, rest homes with nursing supervision, licensed residential care homes, and Medicaid-certified intermediate care residential facilities for people with intellectual disabilities. The bill requires the commissioner, before conducting a forensic audit of any facility, to (1) give the facility an opportunity to meet with DSS representatives and respond to any of the commissioner’s financial concerns and (2) make a good faith determination that a forensic audit is necessary to evaluate these financial concerns.

FACILITIES’ REQUIRED COOPERATION

The bill requires a facility that receives a written request from DSS to cooperate with a forensic audit and give the department any assistance it requests within 10 business days. A facility generally must ensure that all personnel, financial consultants, and accountants fully cooperate and assist with the forensic audit, but is not required to divert personnel from residential care duties and responsibilities to do so.

Penalties

The bill subjects any facility that fails to cooperate with a forensic audit to a civil penalty of up to \$1,000 per business day that it does not give DSS the assistance it requested in writing. The bill allows DSS to withhold Medicaid funds from a facility to recoup these penalties. Under the bill, a facility may request a fair hearing on any penalty assessed.

FORENSIC AUDIT COSTS

Under the bill, a facility DSS identifies as experiencing a serious financial loss may be liable to the department for the costs of a forensic audit, including any reports or related testimony, of up to \$100,000. These costs may be assessed against any single facility or in the aggregate if more than one facility is subject to a single forensic audit.

The bill allows DSS to recover costs of a forensic audit if, through the forensic audit, DSS identifies material issues with the (1) facility's internal financial management or (2) integrity of the facility's financial statements. It lets DSS withhold a facility's Medicaid funds to recoup these costs.

COMMITTEE ACTION

Human Services Committee

Joint Favorable

Yea 15 Nay 7 (03/18/2025)