

# ASSEMBLY, No. 4005

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 4, 2020

**Sponsored by:**

**Assemblywoman ANGELICA M. JIMENEZ**

**District 32 (Bergen and Hudson)**

**Assemblyman RALPH R. CAPUTO**

**District 28 (Essex)**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Co-Sponsored by:**

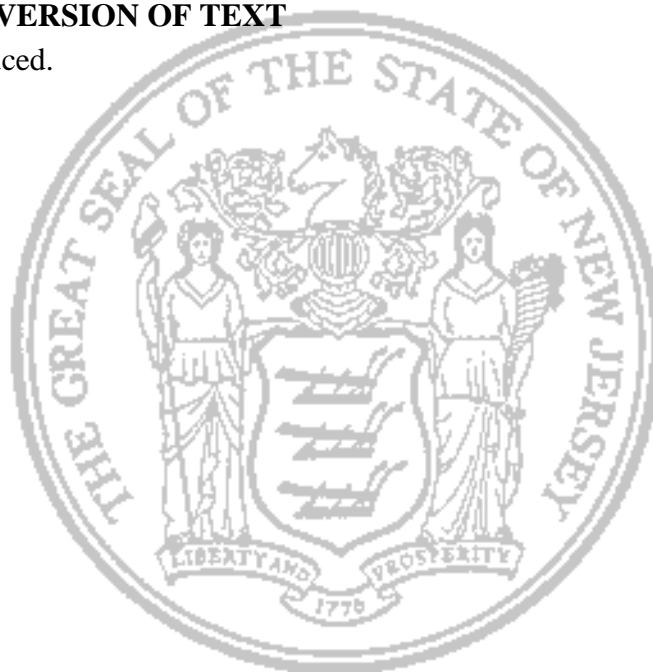
**Assemblywoman Downey, Assemblymen Benson, Mejia and  
Assemblywoman Vainieri Huttie**

**SYNOPSIS**

Concerns certain Medicaid and health insurance audits and health care provider claims payment and denial during coronavirus disease 2019 pandemic.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/28/2020)**

1 AN ACT concerning certain audits and claims of healthcare providers  
2 related to the coronavirus disease 2019 health emergency.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. Notwithstanding the provisions of any law, rule, or  
8 regulation to the contrary, beginning upon March 9, 2020, the date of  
9 the Public Health Emergency and State of Emergency declared by the  
10 Governor in Executive Order 103 of 2020 concerning the coronavirus  
11 disease 2019 pandemic, for the duration of the state of emergency or  
12 the public health emergency, whichever period of declared  
13 emergency is longer, and for a period of 90 days thereafter:

14 (1) The Commissioner of Human Services shall postpone all  
15 Medicaid audits of health care providers.

16 The Commissioner of Human Services shall apply for such State  
17 Medicaid plan amendments or Medicaid waivers as may be necessary  
18 to implement the provisions of this paragraph and to maintain federal  
19 financial participation for State Medicaid expenditures. This  
20 paragraph shall not apply to any audit that is required by the federal  
21 government in order to receive federal financial participation for  
22 State Medicaid expenditures unless the department receives federal  
23 approval to waive such a requirement.

24 (2) The Commissioner of Banking and Insurance shall suspend  
25 the filing of any and all audits of health care providers, which audits  
26 would otherwise be required by the commissioner to be filed with the  
27 Department of Banking and Insurance by health insurance carriers  
28 for any purposes, including but not limited to medical necessity,  
29 DRG coding, utilization management, and level of care.

30 (3) A health insurance carrier shall:

31 (a) suspend all audit related activities, including but not limited  
32 to medical necessity, DRG coding, utilization management, level of  
33 care, and any other audits as prescribed by the Commissioner of  
34 Banking and Insurance pursuant to paragraph (2) of this subsection;

35 (b) suspend all administrative and technical denials of claims,  
36 including denials based on health care provider credentialing  
37 requirements. Any credentialing determination shall be issued within  
38 45 days after receipt by the health insurance carrier of a Universal  
39 Physician Application Credentialing Application or a complete New  
40 Jersey Physician Recredentialing Application;

41 (c) not retrospectively deny claims related to coronavirus disease  
42 2019 care and services for medical necessity, services related to  
43 identifying and mitigating the spread of the disease, or level of care,  
44 unless there is an indication of willful fraud and abuse;

45 (d) suspend preauthorization, and concurrent review for  
46 outpatient services;

47 (e) be prohibited from denying emergency department and  
48 inpatient hospital services as not medically necessary on  
49 retrospective review if the services were rendered by a hospital

1 during the Public Health Emergency declared by Executive Order  
2 No. 103 regarding the coronavirus disease 2019;

3 (f) ensure that documentation requirements for retrospective  
4 review are reasonable, and to take into consideration the  
5 extraordinary circumstances that existed at the time healthcare  
6 services were provided during the Public Health Emergency declared  
7 by Executive Order No. 103 regarding the coronavirus disease 2019;  
8 and

9 (g) process for payment all undisputed outstanding claims for  
10 services rendered prior to March 9, 2020, and all claims for services  
11 rendered on or after March 9, 2020 until after the public health crisis.

12 (4) A health care provider shall have a period of no less than 45  
13 days after receipt of notice of an adverse determination to file an  
14 internal appeal with a health insurance carrier for the duration of the  
15 Public Health Emergency and State of Emergency declared by  
16 Executive Order No. 103 regarding the coronavirus disease 2019, and  
17 extended by any subsequent orders.

18 b. As used in this section;

19 “Credentialing” means the process of assessing and validating the  
20 qualifications of a health care provider including, but not limited to,  
21 an evaluation of licensure status, education, training, experience,  
22 competence and professional judgement.

23 “Health insurance carrier” means an insurance company, health  
24 service corporation, hospital service corporation, medical service  
25 corporation, or health maintenance organization authorized to issue  
26 health benefits plans in this State.

27 “Health care provider” means an individual or entity, which,  
28 acting within the scope of its licensure or certification, provides  
29 health care services, and includes, but is not limited to: a physician,  
30 dentist, nurse, pharmacist or other health care professional whose  
31 professional practice is regulated pursuant to Title 45 of the Revised  
32 Statutes; and a hospital or other health care facility licensed pursuant  
33 to P.L.1971, c.136 (C.26:2H-1 et seq.)

34 “Medicaid” means the program established pursuant to P.L.1968,  
35 c.413 (C.30:4D-1 et seq.).

36

37 2. This act shall take effect immediately and shall be retroactive  
38 to March 9, 2020.

39

40 STATEMENT

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42 This bill provides that beginning upon March 9, 2020, the date of  
43 the Public Health Emergency and State of Emergency declared by the  
44 Governor in Executive Order 103 of 2020 concerning the coronavirus  
45 disease 2019 pandemic, and for the duration of the state of emergency  
46 or the public health emergency, whichever period of declared  
47 emergency is longer, and for a period of 90 days thereafter:

48 (1) The Commissioner of Human Services shall postpone all

1 Medicaid audits of health care providers;

2 (2) The Commissioner of Banking and Insurance shall suspend  
3 the filing of any and all audits of healthcare facilities licensed by the  
4 Department of Health, required to be filed with the department by  
5 health insurance carriers for any purposes; and.

6 (3) Health insurance carriers shall suspend all audit related  
7 activities, including but not limited to medical necessity, DRG  
8 coding, utilization management, level of care, and any other audits  
9 as prescribed by the Commissioner of Banking and Insurance

10 The bill further provides that during this period, health insurance  
11 carriers shall suspend all administrative and technical denials of  
12 claims, including denials based on health care provider credentialing  
13 requirements. Any credentialing determination shall be issued within  
14 45 days after receipt by the health insurance carrier of a Universal  
15 Physician Application Credentialing Application or a complete New  
16 Jersey Physician Recredentialing Application. Carriers shall not  
17 retrospectively deny claims related to coronavirus disease 2019 care  
18 and services for medical necessity, services related to identifying and  
19 mitigating the spread of the disease, or level of care, unless there is  
20 an indication of willful fraud and abuse and shall suspend  
21 preauthorization, and concurrent review for outpatient services.  
22 Carriers shall be prohibited from denying emergency department and  
23 inpatient hospital services as not medically necessary on  
24 retrospective review if the services were rendered by a hospital  
25 during the Public Health Emergency declared by Executive Order  
26 No. 103 regarding the coronavirus disease 2019. They shall also  
27 ensure that documentation requirements for retrospective review are  
28 reasonable, and take into consideration the extraordinary  
29 circumstances that existed at the time healthcare services were  
30 provided during the Public Health Emergency declared by Executive  
31 Order No. 103 regarding the coronavirus disease 2019. Carriers shall  
32 process for payment all undisputed outstanding claims for services  
33 rendered prior to March 9, 2020, and all claims for services rendered  
34 on or after March 9 2020 until after the public health crisis.

35 A healthcare provider shall have a period of no less than 45 days  
36 after receipt of notice of an adverse determination to file an internal  
37 appeal with a health insurance carrier for the duration of the Public  
38 Health Emergency and State of Emergency declared by Executive  
39 Order No. 103 regarding the coronavirus disease 2019, and extended  
40 by any subsequent orders.

41 The Commissioner of Human Services shall apply for such State  
42 Medicaid plan amendments or Medicaid waivers as may be necessary  
43 to implement the provisions of the bill and to maintain federal  
44 financial participation for State Medicaid expenditures. This  
45 paragraph shall not apply to any audit that is required by the federal  
46 government in order to receive federal financial participation for  
47 State Medicaid expenditures unless the department receives federal  
48 approval to waive such a requirement.