

# ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4005**

with committee amendments

# STATE OF NEW JERSEY

DATED: JULY 9, 2020

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 4005.

As amended, this bill provides that beginning upon March 9, 2020, the date of the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic, and for the duration of the public health emergency and a period of 90 days thereafter:

(1) The Commissioner of Human Services shall, unless there is a reasonable indication of willful fraud, abuse, or excessive or egregious billing practices, suspend for a period of 90 days and thereafter may suspend, in increments of 30 days at a time, Medicaid audits of health care providers related to medical necessity, DRG coding, utilization management, or level of care;

(2) The Commissioner of Banking and Insurance shall, unless there is a reasonable indication of willful fraud, abuse, or excessive or egregious billing practices, suspend for a period of 90 days and thereafter may suspend, in increments of 30 days at a time, retrospective reviews of health care provider claims based on medical necessity, DRG coding, utilization management, or level of care; and

(3) Health insurance carriers shall suspend claims audit related activities, such as medical necessity, DRG coding, utilization management, level of care, and any other audits as prescribed by the Commissioner of Banking and Insurance for services obtained to diagnose coronavirus disease 2019 or obtained as a result of a coronavirus disease 2019 diagnosis.

The bill further provides that during this period, health insurance carriers shall suspend denials based on health care provider credentialing requirements. Any credentialing determination shall be issued within 45 days after receipt by the health insurance carrier of a Universal Physician Application Credentialing Application or a complete New Jersey Physician Recredentialing Application. Carriers shall not retrospectively deny claims related to coronavirus disease 2019 care and services for medical necessity, or level of care, unless

there is a reasonable indication of willful fraud, abuse, or excessive or egregious billing practices and shall suspend preauthorization, and concurrent review for inpatient services related to coronavirus disease 2019. Carriers shall be prohibited from denying emergency department and inpatient hospital services related to coronavirus disease 2019 as not medically necessary on retrospective review, unless there is a reasonable indication of willful fraud, abuse, or excessive or egregious billing practices if the services were rendered by a hospital during the Public Health Emergency declared by Executive Order No. 103 regarding the coronavirus disease 2019 pandemic.

This bill provides that a healthcare provider shall have a period of no less than 90 days after receipt of notice of an adverse determination to file an internal appeal with a health insurance carrier for the duration of the Public Health Emergency declared by Executive Order No. 103 regarding the coronavirus disease 2019 pandemic, and extended by any subsequent orders.

Committee Amendments:

The committee amended the bill to:

1. exempt those claims subject to an audit that is suspended pursuant to the provisions of the bill from certain requirements under current law;
2. limit the provisions of the bill to the duration of the public health emergency and for a period of 90 days thereafter;
3. require the Commissioner of Human Services to, unless there is a reasonable indication of willful fraud, abuse, or excessive or egregious billing practices, suspend for a period of 90 days and subsequently permit the Commissioner of Human services to suspend, in increments of 30 days at a time, Medicaid audits of health care providers related to medical necessity, DRG coding, utilization management, or level of care;
4. require the Commissioner of Banking and Insurance to, unless there is a reasonable indication of willful fraud, abuse, or excessive or egregious billing practices, suspend for a period of 90 days and thereafter permit the Commissioner of Banking and Insurance to suspend, in increments of 30 days at a time, retrospective reviews of certain health care provider claims based on medical necessity, DRG coding, utilization management, or level of care;
5. make certain changes to the definition of “health care provider”;
6. provide that a health care provider is to have a period of 90 days to file an internal appeal with a health insurance carrier, for the duration of the public health emergency, after receipt of notice of an adverse determination; and

7. provide that the calculation of the time limits for overpayment recoupment pursuant to the requirements of the “Health Claims Authorization, Processing and Payment Act” P.L.2005, c.352 (C.17B:30-48 et seq.) shall not include any days commencing on March 9, 2020 and falling within the duration of the public health emergency.