

ASSEMBLY, No. 4009

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 4, 2020

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

SYNOPSIS

Establishes certain penalties on clinical laboratories regarding receipt of Medicaid overpayments, and on entities engaged in business with such clinical laboratories.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning Medicaid overpayments to clinical laboratories
2 and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.).

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. As used in this act:

8 "Clinical laboratory" means any facility used for the performance of
9 chemical, bacteriologic, virologic, parasitologic, serologic,
10 hematologic, immuno-hematologic, biophysical, cytologic or other
11 examinations of materials derived from the human body for the
12 purpose of yielding information for: the diagnosis, prevention, or
13 treatment of disease; the assessment of a medical condition; or the
14 testing of drugs. Any facility used for the collection, processing, and
15 transmission of specimens to another facility for the performance of
16 clinical tests falls within the purview of this act.

17 "State-funded entity" means any department, agency, or
18 instrumentality of the State; any department, agency, or
19 instrumentality of a county or municipality located in the State; or any
20 contractor, grantee, or other recipient of State funds.

21 "Medicaid" means the Medicaid program established pursuant to
22 P.L.1968, c.413 (C.30:4D-1 et seq.)

23 "Medicaid overpayments" mean any Medicaid funds provided to a
24 clinical laboratory due to the clinical laboratory's administration of
25 contracts, cost reports, claims, bills, or any other expenditures of
26 Medicaid funds in such a manner that does not comply with applicable
27 laws, regulations, and guidelines.

28

29 2. a. A clinical laboratory shall be barred for a period of ten years
30 from entering into or renewing a public contract, or engaging in any
31 form of business, with any State-funded entity, and from receiving any
32 State funds, grants, or loans, when:

33 (1) the Office of the State Comptroller, Medicaid Fraud Division
34 seeks a recovery of Medicaid overpayments totaling \$100,000 or more
35 from the clinical laboratory; or

36 (2) an employee, officer, or agent of the clinical laboratory is
37 convicted of a violation of section 3 of the "New Jersey False
38 Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.) or section 3 of
39 P.L.1997, c.353 (C.2C:21-4.3) or section 17 of P.L.1968, c.413
40 (C.30:4D-17) due to \$100,000 or more in Medicaid overpayments.

41 b. The Department of Health shall permanently revoke the license
42 of a clinical laboratory, issued pursuant to the "New Jersey Clinical
43 Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26), when

44 (1) the Office of the State Comptroller, Medicaid Fraud Division
45 seeks a recovery of Medicaid overpayments totaling \$1,000,000 or
46 more from the clinical laboratory; or

47 (2) an employee, officer, or agent of the clinical laboratory is
48 convicted of a violation of section 3 of the "New Jersey False

1 Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.) or section 3 of
2 P.L.1997, c.353 (C.2C:21-4.3) or section 17 of P.L.1968, c.413
3 (C.30:4D-17) due to \$1,000,000 or more in Medicaid overpayments.
4

5 3. A clinical laboratory that is reimbursing the State for Medicaid
6 overpayments totaling \$100,000 or more pursuant to an investigation,
7 audit, or report issued by the Office of the State Comptroller, Medicaid
8 Fraud Division upon the effective date of this act shall be barred from
9 entering into or renewing a public contract or engaging in any form of
10 business with any State-funded entity, and from receiving any State
11 funds, grants, or loans, during the time period in which the clinical
12 laboratory is providing for such reimbursements, plus an additional
13 three year period commencing on the date on which the final
14 reimbursement is made to the State.
15

16 4. a. The Department of Health shall establish on the
17 department's website a searchable database of the clinical laboratories
18 subject to the provisions of section 2 and section 3 of this act. The
19 database shall include, at a minimum, the name and address of each
20 clinical laboratory, and the length of time the clinical laboratory is
21 barred from entering into or renewing a public contract or engaging in
22 any form of business with any State-funded entity, and from receiving
23 any State funds, grants, or loans, as applicable under the provisions of
24 this act.

25 b. Any entity that enters into or renews a public contract, or
26 engages in any form of business, with a clinical laboratory listed in the
27 database established pursuant to subsection a. of this section, shall be
28 barred from receiving any State funds, grants, or loans, or from
29 engaging in any form of business with a State-funded entity for five
30 years.
31

32 5. This act shall take effect immediately.
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35 STATEMENT

36
37 This bill establishes certain penalties on clinical laboratories
38 regarding the receipt of Medicaid overpayments, and on entities
39 engaged in business with such clinical laboratories. As defined in
40 the bill, "clinical laboratory" means any facility used for the
41 performance of chemical, bacteriologic, virologic, parasitologic,
42 serologic, hematologic, immunohematologic, biophysical, cytologic or
43 other examinations of materials derived from the human body for the
44 purpose of yielding information for: the diagnosis, prevention, or
45 treatment of disease; the assessment of a medical condition; or the
46 testing of drugs. Any facility used for the collection, processing, and
47 transmission of specimens to another facility for the performance of
48 clinical tests falls within the purview of this bill. "Medicaid

1 overpayment” means any Medicaid funds provided to a clinical
2 laboratory due to the clinical laboratory’s administration of contracts,
3 cost reports, claims, bills, or any other expenditures of Medicaid funds
4 in such a manner that does not comply with applicable laws,
5 regulations, and guidelines.

6 Specifically, the bill bars a clinical laboratory for a period of ten
7 years from entering into or renewing a public contract, or engaging in
8 any form of business, with any State-funded entity, and from receiving
9 any State funds, grants, or loans, when: (1) the Office of the State
10 Comptroller, Medicaid Fraud Division seeks a recovery of Medicaid
11 overpayments totaling \$100,000 or more from the clinical laboratory;
12 or (2) an employee, officer, or agent of the clinical laboratory is
13 convicted of a violation of section 3 of the "New Jersey False
14 Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.) or section 3 of
15 P.L.1997, c.353 (C.2C:21-4.3), informally known as the New Jersey
16 Health Care Claims Fraud Act, or section 17 of P.L.1968, c. 413 (C.
17 30:4D-17), which provides for penalties regarding Medicaid fraud,
18 due to \$100,000 or more in Medicaid overpayments. When the
19 Medicaid overpayment increase to \$1 million or more, the
20 Department of Health is directed to permanently revoke the license of
21 the clinical laboratory.

22 Furthermore, a clinical laboratory that is reimbursing the State for
23 Medicaid overpayments totaling \$100,000 or more pursuant to an
24 investigation, audit, or report issued by the Office of the State
25 Comptroller, Medicaid Fraud Division upon the effective date of the
26 bill is barred from entering into or renewing a public contract or
27 engaging in any form of business with any State-funded entity, and
28 from receiving any State funds, grants, or loans, during the time period
29 in which the clinical laboratory is providing for such reimbursements,
30 plus an additional three year period commencing on the date on
31 which the final reimbursement is made to the State.

32 Under the bill, “State-funded entity” is defined as any department,
33 agency, or instrumentality of the State; any department, agency, or
34 instrumentality of a county or municipality located in the State; or any
35 contractor, grantee, or other recipient of State funds.

36 The bill also directs the Department of Health to establish on the
37 department’s website a searchable database of the clinical laboratories
38 subject to the penalties of the bill. The database is to include, at a
39 minimum, the name and address of each clinical laboratory, and the
40 length of time the clinical laboratory is subject to the penalties under
41 the bill. Any entity that enters into or renews a public contract, or
42 engages in any form of business, with a clinical laboratory listed in the
43 database is to be barred from receiving any State funds, grants, or
44 loans, or from engaging in any form of business with a State-funded
45 entity, for five years.