

SENATE, No. 1095

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Requires audits of managed care plan provider networks.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning certain health insurance carriers, supplementing
2 Titles 26 and 30 of the Revised Statutes and amending
3 R.S.52:24-4.

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

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8 1. (New section) a. A carrier which offers a managed care
9 plan shall provide for an annual audit of its provider network by a
10 private auditing firm. The audit shall be at the expense of the
11 carrier and the carrier shall submit the audit findings to the
12 commissioner.

13 b. If the audit contains a determination that a carrier has failed
14 to maintain an adequate network of providers in accordance with
15 applicable federal or State law, including specialists as enumerated
16 in N.J.A.C.11:24-6.2, the Commissioner of Banking and Insurance
17 shall impose a civil penalty of not less than \$500 nor more than
18 \$10,000 upon the carrier for each instance in which the audit
19 determines that the carrier failed to maintain an adequate network.
20 The civil penalty shall be collected by the commissioner pursuant to
21 the "Penalty Enforcement Law of 1999" P.L.1999 c.274 (C.2A:58-
22 10 et seq.).

23 c. A carrier that has failed to maintain an adequate network
24 shall be prohibited from delivering, executing, or renewing health
25 benefits plans in this State if the carrier does not comply with the
26 requirements set forth in this section within 90 days of the
27 imposition of the civil penalty.

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29 2. R.S.52:24-4 is amended to read as follows:

30 52:24-4. It shall be the duty of the State Auditor to conduct post-
31 audits of all transactions and accounts kept by or for all
32 departments, offices and agencies of the State Government, to
33 report to the Legislature or to any committee thereof and to the
34 Governor, and to the Executive Director of the Office of Legislative
35 Services, as provided by this chapter and as shall be required by
36 law, and to perform such other similar or related duties as shall,
37 from time to time, be required of him by law.

38 The State Auditor shall personally or by any of his duly
39 authorized assistants, or by contract with independent public
40 accountant firms, examine and post-audit all the accounts, reports
41 and statements and make independent verifications of all assets,
42 liabilities, revenues and expenditures of the State, its departments,
43 institutions, boards, commissions, officers, and any and all other
44 State agencies, now in existence or hereafter created, hereinafter in
45 this chapter called "accounting agencies."

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 The State Auditor shall conduct, at the direction of the
2 Legislative Services Commission or of the presiding officer of
3 either house of the Legislature or on the State Auditor's own
4 initiative, a performance review audit of any program of any
5 accounting agency, any independent authority, or any public entity
6 or grantee that receives State funds, in a manner that is consistent
7 with the Government Auditing Standards for performance audits
8 utilized by the United States Government Accountability Office or
9 its successor.

10 The State Auditor shall annually conduct a performance review
11 audit of every health maintenance organization that contracts with
12 the Department of Human Services to provide health care services
13 for recipients of the Medicaid program pursuant to P.L.1968, c.413
14 (C.30:4D-1 et seq.) in order to determine whether the health
15 maintenance organizations individually and as a group have
16 established and maintained adequate provider networks, including
17 specialists as enumerated in N.J.A.C.11:24-6.2, which are accepting
18 recipients of the Medicaid program as patients in accordance with
19 the provisions of their contracts.

20 When the State Auditor conducts any audit or performance
21 review audit, the accounting agency, or authority, entity **[or]**,
22 grantee, or health maintenance organization, shall respond in
23 writing to each item in the State Auditor's report and the State
24 Auditor, at an appropriate time determined by him, shall conduct a
25 post-audit review of the accounting agency's, or authority's, entity's,
26 **[or]** grantee's, or health maintenance organization's compliance
27 with the State Auditor's recommendations.

28 The officers and employees of each accounting agency, or
29 authority, entity, **[or]** grantee, or health maintenance organization,
30 shall assist the State Auditor, when and as required by him, and
31 provide the State Auditor with prompt access to all records
32 necessary for the State Auditor to perform his duties,
33 notwithstanding any statutory or regulatory requirements of
34 confidentiality with regard to the records, for the purpose of
35 carrying out the provisions of this chapter. The State Auditor shall
36 report the failure of any accounting agency, or authority, entity,
37 **[or]** grantee, or health maintenance organization, to provide prompt
38 access to any relevant record to the presiding officer of each house
39 of the Legislature. The State Auditor shall not disclose a
40 confidential record provided by an accounting agency, or authority,
41 entity, **[or]** grantee, or health maintenance organization, except as
42 may be necessary for the State Auditor to fulfill his constitutional or
43 statutory responsibilities. Working papers prepared by the State
44 Auditor shall be confidential and shall not be considered
45 government records under P.L.1963, c.73 (C.47:1A-1 et seq.).

46 Notwithstanding any law to the contrary, post-audits and
47 performance review audits shall be conducted within the limits of

1 the resources and personnel available to the State Auditor. If
2 resources and personnel are insufficient to conduct all such required
3 post-audits and performance review audits, the State Auditor may
4 prioritize certain audits and forgo others upon notice to the
5 Governor and the presiding officer of each house of the Legislature.
6 (cf: P.L.2018, c.162, s.11)

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8 3. (New section) For each instance in which the State Auditor
9 determines, pursuant to R.S.52:24-4, that a health maintenance
10 organization has not established or maintained a provider network
11 that accepts recipients of the Medicaid program as patients in
12 accordance with the provisions of its contract with the Department
13 of Human Services to provide health care services for recipients of
14 the Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et
15 seq.), the Commissioner of Human Services shall impose a civil
16 penalty of not less than \$500 nor more than \$10,000. The
17 commissioner shall collect the penalty pursuant to the "Penalty
18 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

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20 4. This act shall take effect on the 60th day following
21 enactment.

22 23 24 STATEMENT

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26 This bill supplements the consumer safeguards with respect to
27 health benefits plans provided by health insurance carriers that were
28 established pursuant to the "Health Care Quality Act," P.L.1997,
29 c.192 (C.26:2S-1 et seq.).

30 The bill provides specifically that a carrier which offers a
31 managed care plan must provide for an annual audit of its provider
32 network, at its own expense, by a private auditing firm. If the audit
33 finds that a carrier failed to maintain an adequate network in
34 accordance with applicable federal or State law, including
35 specialists as enumerated in N.J.A.C.11:24-6.2, the Commissioner
36 of Banking and Insurance is to impose a civil penalty of not less
37 than \$500 nor more than \$10,000 upon the carrier for each instance
38 in which the audit determines that the carrier failed to maintain an
39 adequate network. A carrier that has failed to maintain an adequate
40 network is prohibited from delivering, executing, or renewing
41 health benefits plans in this State if the carrier does not comply with
42 the requirements set forth in this bill within 90 days of the
43 imposition of the civil penalty.

44 The State Auditor is directed to annually conduct a performance
45 review audit of every health maintenance organization (HMO) that
46 contracts with the Department of Human Services to provide health
47 care services for Medicaid recipients in order to determine whether
48 the HMOs individually and as a group have established and

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1 maintained adequate provider networks, including specialists as
2 enumerated in N.J.A.C.11:24-6.2, which are accepting recipients of
3 the Medicaid program as patients in accordance with the provisions
4 of their contracts. The Commissioner of Human Services is to
5 impose a civil penalty of not less than \$500 nor more than \$10,000
6 upon a HMO for each instance in which the State Auditor
7 determines that the HMO has not established or maintained a
8 provider network that accepts Medicaid recipients as patients in
9 accordance with the provisions of its contract.
10 The bill takes effect on the 60th day after enactment.