

SENATE, No. 2431

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator NELLIE POU

District 35 (Bergen and Passaic)

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.



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

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

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

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

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

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

32 (3) A health insurance carrier shall:

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

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

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

1 (d) suspend preauthorization, and concurrent review for
2 outpatient services;

3 (e) be prohibited from denying emergency department and
4 inpatient hospital services as not medically necessary on
5 retrospective review if the services were rendered by a hospital
6 during the Public Health Emergency declared by Executive Order
7 No. 103 regarding the coronavirus disease 2019;

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

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

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

24 b. As used in this section;

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

29 “Health insurance carrier” means an insurance company, health
30 service corporation, hospital service corporation, medical service
31 corporation, or health maintenance organization authorized to issue
32 health benefits plans in this State.

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

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

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

STATEMENT

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 state of emergency or the public health emergency, whichever period of declared emergency is longer, and for a period of 90 days thereafter:

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

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

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

The bill further provides that during this period, health insurance carriers shall suspend all administrative and technical denials of claims, including 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, services related to identifying and mitigating the spread of the disease, or level of care, unless there is an indication of willful fraud and abuse and shall suspend preauthorization, and concurrent review for outpatient services. Carriers shall be prohibited from denying emergency department and inpatient hospital services as not medically necessary on retrospective review if the services were rendered by a hospital during the Public Health Emergency declared by Executive Order No. 103 regarding the coronavirus disease 2019. They shall also ensure that documentation requirements for retrospective review are reasonable, and take into consideration the extraordinary circumstances that existed at the time healthcare services were provided during the Public Health Emergency declared by Executive Order No. 103 regarding the coronavirus disease 2019. Carriers shall process for payment all undisputed outstanding claims for services rendered prior to March 9, 2020, and all claims for services rendered on or after March 9 2020 until after the public health crisis.

A healthcare provider shall have a period of no less than 45 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

1 Health Emergency and State of Emergency declared by Executive
2 Order No. 103 regarding the coronavirus disease 2019, and
3 extended by any subsequent orders.

4 The Commissioner of Human Services shall apply for such State
5 Medicaid plan amendments or Medicaid waivers as may be
6 necessary to implement the provisions of the bill and to maintain
7 federal financial participation for State Medicaid expenditures. This
8 paragraph shall not apply to any audit that is required by the federal
9 government in order to receive federal financial participation for
10 State Medicaid expenditures unless the department receives federal
11 approval to waive such a requirement.