

HOUSE No. 5659

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 2, 1978.

The committee on Health Care, to whom was referred so much of the recommendations of the Department of Public Welfare (House, No. 171) as relates to improving the administration of the Medicaid program (accompanied by bill, House, No. 176), reports recommending that the accompanying bill (House, No. 5659) ought to pass.

For the committee,

LOUIS P. BERTONAZZI.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT TO IMPROVE THE ADMINISTRATION OF THE MEDICAID PROGRAM.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 18 of the General Laws is hereby
2 amended by striking out section 5C, as most recently amended by
3 chapter 70I of the acts of 1970, and inserting in place thereof the
4 following section: —

5 *Section 5C.* Any vendor or provider who delivers goods or
6 renders services under any program administered by the
7 department shall submit bills for the same to the department
8 within three months after the last day of the month in which the
9 goods were sold or the services were rendered, except as provided
10 in this paragraph or in regulations of the department adopted
11 pursuant to this paragraph. If a vendor or provider submits such a
12 bill to a third party within three months after the last day of the
13 month in which the goods were sold or the services were rendered
14 in the reasonable belief that the third party is responsible for all or
15 part of the bill, the department shall not reject the bill as untimely if
16 the vendor or provider subsequently submits the bill to the
17 department within either three months after the last day of the
18 month in which the third party notifies the vendor or provider of
19 the extent of the third party's liability or nine months after the last
20 day of the month in which the goods were sold or the services were
21 rendered, whichever first occurs. If a vendor or provider is
22 prevented from submitting a bill to the department within three
23 months after the last day of the month in which the goods were sold
24 or the services were rendered by untimely action or failure to act of
25 any other person whose action is required and whose timely action
26 has been requested by the provider, the department shall not reject
27 the bill as untimely if the vendor or provider submits the bill,
28 together with an explanation and supporting evidence for the
29 delay, within either three months of the last day of the month in
30 which he is no longer prevented from doing so or nine months after
31 the last day of the month in which the goods were sold or the

32 services were rendered, whichever first occurs. The department
33 may adopt, after public hearing under section two of chapter thirty
34 A, additional exceptions to the limit of three months, but in no case
35 shall the limit be greater than one year after the last day of the
36 month in which the goods were sold or the services were rendered.

37 The department may establish by regulation the period or
38 periods, not to exceed fifteen months after the last day of the
39 month in which the goods were sold or the services were rendered,
40 within which bills which had been submitted originally on time but
41 which have been disallowed may be resubmitted or corrected.

42 The department shall establish by regulation a procedure for the
43 administrative review, without hearing, of disallowed claims for
44 payment. The department may deem any such claims which it
45 determines to be valid after such review or after any hearing under
46 section sixteen or under section twenty-two of chapter one
47 hundred and eighteen E to be obligations for the fiscal year in
48 which it makes its determination without regard to the fiscal year
49 in which the goods were sold or the services were rendered.

50 Bills shall be submitted in such form and manner as the
51 department shall prescribe, which form shall include a certification
52 as to the truth, accuracy and completeness of the matters stated in
53 the bill. Bills shall be signed under the penalties of perjury,
54 provided, however, that an institution as defined in clause (d) of
55 section two of chapter one hundred and eighteen E may, in lieu of
56 such signature, agree in writing with the commissioner that its
57 books and records will be available for inspection at all reasonable
58 times by the department with respect to services rendered under
59 any assistance program administered by the department.

60 The department shall require that vendors and providers
61 maintain records, subject to audit, proving actual delivery of goods
62 and services for which bills are submitted. The department shall
63 verify the accuracy of bills submitted and paid, by statistical
64 sampling methods. Employing such methods, the department may
65 randomly select vendors and providers for audit, and may
66 determine the accuracy of bills for goods and services delivered
67 during any audit period by extrapolating the results of an audit of a
68 representative sample of such bills. This section shall not prohibit
69 the department from using non-random methods of selection, for
70 purposes other than determining amounts incorrectly claimed or
71 paid.

1 SECTION 2. Said chapter 18 is hereby further amended by
2 striking out section 5D, as appearing in section 6 of chapter 885 of
3 the acts of 1969, and inserting in place thereof the following
4 section: —

5 *Section 5D.* Any vendor procuring a payment under any
6 assistance program administered by the department who violates
7 any of the provisions of section five B shall be ineligible to
8 participate in that or any other assistance program administered
9 by the department for a period of three years next following the
10 date of said violation, and for such further period as the
11 department shall determine with due regard to the number and
12 gravity of such violations. However, a vendor shall not be
13 considered in violation of section five B upon submission of proof,
14 to the satisfaction of the commissioner, that such violation was due
15 solely to a clerical or administrative error.

1 SECTION 3. Section 7 of chapter 118E of the General Laws, as
2 most recently amended by section 3 of chapter 1084 of the acts of
3 1971, is hereby further amended by striking out the first paragraph
4 and inserting in place thereof the following two paragraphs: —

5 The department shall establish methods and procedures to
6 prevent unnecessary or inappropriate utilization of, and payment
7 for, goods and services available under the medical assistance
8 program established by this chapter. Such methods and
9 procedures may include: examination of recipients, with their
10 consent, by medical consultants to the department; reviews of
11 diagnostic information regarding recipients by medical con-
12 sultants to the department; resort to standards and criteria
13 formulated by committees of physicians and other medical
14 professionals appointed by the department in cooperation with
15 medical societies, foundations and other professional health care
16 organizations; and prior approval by the department as a
17 prerequisite to furnishing medical assistance.

18 Any provider from whom payment is withheld or recovered on
19 the ground that an item or service was medically unnecessary or
20 inappropriate shall be afforded an opportunity for review of such
21 denial by one or more of his peers.

1 SECTION 4. Said chapter 118E is hereby amended by striking
2 out section 11, as appearing in section 1 of chapter 800 of the acts of
3 1969, and inserting in place thereof the following section: —

4 *Section 11.* The department shall periodically issue an
5 identification card or other documentary evidence of eligibility to
6 persons who have been determined by the department to be eligible
7 for medical assistance. Such documentary evidence shall state the
8 period or periods for which such eligibility has been determined
9 and may state other limits or restrictions on the nature or extent of
10 medical services for which the person is eligible. Such documen-
11 tary evidence shall be presented to providers as evidence of
12 eligibility for services. The department shall inform the holders of
13 such documentary evidence of their obligation to exhibit it to any
14 provider upon request as evidence of eligibility for services.

15 The department shall not deny payment for services on account
16 of a recipient's ineligibility if the provider proves that in furnishing
17 such services he relied reasonably and in good faith upon
18 documentary evidence of eligibility issued by the department. No
19 provider may recover payment from an eligible individual for a
20 covered service unless: the provider proves that the individual
21 failed or refused to exhibit such documentary evidence when
22 requested; and, the provider proves that such failure or refusal
23 prevented the provider from obtaining payment from the
24 department; and, the provider gives notice to the department
25 before judgment in any civil action to recover payment from an
26 eligible individual for a covered service.

1 SECTION 5. Said Chapter 118E of the General Laws is hereby
2 amended by striking out sections 18 and 19, as so appearing, and
3 inserting in place thereof the following two sections: —

4 *Section 18.* Participation in the program shall be limited to
5 providers:

6 (1) who indicate to the department their intention to partic-
7 cipate;

8 (2) who meet all applicable eligibility criteria for participation
9 established in accordance with Title XIX of the Social Security Act
10 and section twenty-seven of this chapter;

11 (3) by whom, or on whose behalf, a written agreement has been
12 made with the department which includes a promise by the
13 provider to comply with all applicable laws, rules and regulations

14 governing the operation of the program; and

15 (4) who are not in violation of any agreement made pursuant to
16 clause (3) of this section or in default of any obligation imposed by
17 section five E of chapter eighteen.

18 *Section 19.* The department shall establish administrative
19 sanctions against providers for violations of any rules, regulations,
20 standards or laws governing the participation of providers in the
21 medical assistance program established by this chapter. Such
22 administrative sanctions may include but shall not be limited to
23 fines, forfeiture or recovery from amounts otherwise properly
24 paid, and suspension from participation in the program, in such
25 amounts and for such periods as the department shall determine
26 with due regard to the number and gravity of such violations. The
27 department shall notify the proper professional societies and
28 licensing agencies of such violations.

1 SECTION 6. Said chapter 118E is hereby further amended by
2 striking out section 20, as most recently amended by section 29 of
3 chapter 283 of the acts of 1976, and inserting in place thereof the
4 following section: —

5 *Section 20.* Any provider who delivers goods or renders services
6 under the program shall submit bills for the same in accordance
7 with section five C of chapter eighteen.

