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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2355 Session of 2020

INTRODUCED BY SANKEY, GROVE, KAUFER, GAYDOS, OWLETT, THOMAS, JONES, MILLARD, BERNSTINE, RYAN, WHEELAND, SAYLOR, COX, MOUL, KEEFER, KLUNK, DUSH, B. MILLER, RADER AND NELSON, APRIL 3, 2020

AS REPORTED FROM COMMITTEE ON HUMAN SERVICES, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 9, 2020

AN ACT

Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth," in public assistance, providing for ~~duties of medical assistance managed care organizations~~ MEDICAL ASSISTANCE MANAGED CARE ORGANIZATION RATE SETTING. <-- <--

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code, is amended by adding a section to read:

~~Section 449.1. Duties of Medical Assistance Managed Care Organizations.--(a) No less than ninety days after the effective date of this section, a medical assistance managed care organization that provides services or seeks to provide services under the medical assistance program shall enter into an agreement with the department as specified under this section.~~ <--

~~(b) An agreement under subsection (a) shall authorize the department to recover any loss incurred by the department as a result of a medical assistance managed care organization's failure to do any of the following:~~

~~(1) Comply with the terms of the medical assistance managed care organization's contract with the department.~~

~~(2) Comply with Federal or State regulations regarding services provided by the medical assistance managed care organization through the medical assistance program.~~

~~(c) An agreement under subsection (a) shall require a medical assistance managed care organization to comply with all of the following:~~

~~(1) Cease to expend money from the medical assistance program to make payments for claims that constitute provider preventable conditions that occurred during inpatient procedures.~~

~~(2) Annually review all inpatient services to determine if money paid under the medical assistance program was prohibited because the payments were for claims that constitute provider preventable conditions.~~

~~(d) The department shall require a medical assistance managed care organization to document and review all of the following:~~

~~(1) Claims for inpatient services that were paid under the medical assistance program to determine if the payments were for claims that constitute provider preventable conditions.~~

~~(2) Claims for behavioral services that were paid under the medical assistance program to determine if the payments were for claims that constitute provider preventable conditions.~~

~~(e) Upon request by the department, a medical assistance~~

~~managed care organization shall provide the department with any documents associated with the medical assistance managed care organization's review under subsection (d).~~

~~(f) Upon examining documents provided under subsection (e), if the department determines that a medical assistance managed care organization has not kept adequate records to stop the payment of claims that constitute provider preventable conditions, the department shall impose a fine of no less than 0.5% and no more than 5% of the total claims from medical assistance managed care organizations from the medical assistance program.~~

~~(g) Upon examining documents provided under subsection (e), if the department determines that a medical assistance managed care organization paid claims that constitute provider preventable conditions, the department shall have the following duties:~~

~~(1) If a claim which constituted a provider preventable condition was paid by the medical assistance program under the fee for service model, the department shall require the medical assistance managed care organization to reimburse the department for an amount equal to the total amount of payments for claims that constitute provider preventable conditions.~~

~~(2) If a medical assistance managed care organization fails to disclose payments for claims that constitute provider preventable conditions, the department shall:~~

~~(i) require the medical assistance managed care organization and the medical assistance managed care organization to reimburse the department for the total amount of payments for claims that constitute provider preventable conditions; and~~

~~(ii) impose an additional fine of up to 5% of the total~~

~~amount of payments for claims that constitute provider-preventable conditions made by the medical assistance managed care organization.~~

~~(3) If a claim which constituted a provider preventable condition was paid by the medical assistance program as a capitated payment, the department shall adjust the capitated payment rate for the medicaid managed care organization that paid the claim for a provider preventable condition during the next fiscal year.~~

SECTION 449.1. MEDICAL ASSISTANCE MANAGED CARE ORGANIZATION RATE SETTING.--(A) THE DEPARTMENT SHALL ANNUALLY ADJUST THE MEDICAL ASSISTANCE MANAGED CARE ORGANIZATION FINANCIAL REPORTING THAT IS USED AS THE BASIS OF RATE SETTING BY THE VALUE OF PROVIDER-PREVENTABLE CONDITIONS IN NO LESS THAN FACILITY PLACE OF SERVICE PAID BY THE MEDICAL ASSISTANCE MANAGED CARE ORGANIZATION TO ENSURE THAT FEDERAL AND STATE FUNDS ARE NOT USED TO PAY FOR IMPROPER PAYMENTS. <--

(B) THE DEPARTMENT SHALL ANNUALLY REPORT THE VALUE OF ADJUSTMENTS BY THE MEDICAL ASSISTANCE MANAGED CARE ORGANIZATION UNDER SUBSECTION (A) AS PART OF THE REPORTS REQUIRED UNDER ARTICLE V-A.

~~(h)~~ (C) As used in this section, the following words and phrases shall have the meanings given to them in this subsection: <--

"Medical assistance managed care organization" means a Medicaid managed care organization as defined in section 1903(m)(1)(A) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1903(m)(1)(A)) that is a party to a Medicaid managed care contract with the department to provide physical or behavioral health services.

~~"Provider preventable conditions" means any of the following:~~ <--

~~(1) A condition acquired in any inpatient setting that is considered to have a high cost or occur in a high volume.~~

~~(2) A surgical or invasive procedure performed on the wrong patient.~~

~~(3) A surgical or invasive procedure performed on the wrong body part of a patient.~~

"PROVIDER-PREVENTABLE CONDITIONS" MEANS ANY CONDITIONS <-- OCCURRING IN A HEALTH CARE SETTING THAT MEET THE FOLLOWING CRITERIA:

(1) IS IDENTIFIED IN THE STATE PLAN IN LINE WITH THE FEE-FOR-SERVICE MODEL.

(2) HAS BEEN FOUND BY THE COMMONWEALTH, BASED UPON A REVIEW OF MEDICAL LITERATURE BY QUALIFIED PROFESSIONALS, TO BE REASONABLY PREVENTABLE THROUGH THE APPLICATION OF PROCEDURES SUPPORTED BY EVIDENCE-BASED GUIDELINES.

(3) HAS A NEGATIVE CONSEQUENCE FOR THE PATIENT.

(4) IS AUDITABLE.

(5) INCLUDES, AT A MINIMUM, ANY OF THE FOLLOWING:

(I) A WRONG SURGICAL OR OTHER INVASIVE PROCEDURE PERFORMED ON A PATIENT.

(II) A SURGICAL OR OTHER INVASIVE PROCEDURE PERFORMED ON THE WRONG BODY PART.

(III) A SURGICAL OR OTHER INVASIVE PROCEDURE PERFORMED ON THE WRONG PATIENT.

Section 2. This act shall take effect in 60 days.