

Legislative Analysis



BACKGROUND CHECKS FOR HEALTH PROFESSIONALS

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Senate Bill 702 as passed by the Senate
Sponsor: Sen. John Moolenaar
House Committee: Health Policy
Senate Committee: Regulatory Reform

(Enacted as Public Act 49 of 2012)

Complete to 2-21-12

A SUMMARY OF SENATE BILL 702 AS REPORTED BY COMMITTEE 2-16-12

The bill would amend the Public Health Code to change the beginning date for which an applicant for initial licensure or registration as a health professional would have to submit fingerprints to the Department of State Police for a state and federal criminal history check. The date would be changed from May 1, 2006, to October 1, 2008.

MCL 333.16174

BACKGROUND INFORMATION:

The requirement for new health professionals to undergo a criminal history check when they first apply for licensure or registration, beginning May 1, 2006, was added by Public Act 26 of 2006. PA 26 was part of a package of legislation that amended various acts to, among other things, conform the requirements for criminal background checks of health professionals and certain employees of health facilities (e.g., nursing homes and other long-term care facilities) to requirements under the federal Social Security Act. Conformity among those required to undergo the criminal screening was necessary to ensure continued Medicaid and Medicare reimbursement for health care provided in the affected facilities.

Apparently, however, the criminal history checks of all new health professional licensees and registrants did not actually begin until October 1, 2008. The problem is that CMS, the federal agency that administers the Medicaid and Medicare programs, requires a state to comply with both federal and its own state laws for reimbursement. The delay in implementing the criminal history checks from May 2006 to October 2008 puts the state out of compliance with its own law.

Reportedly, the Auditor General has therefore expressed a concern that some of the payments issued to health care providers between May 1, 2006, and October 1, 2008, may be questionable and will need to be reported to federal authorities. If the federal government disallows some of those claims, the disallowance could be almost \$15 million. By changing the beginning date for when new licensees and registrants must submit to a criminal background check to the date when the criminal history checks actually began, the bill could avert the potential disallowances to the Department of Community Health. According to the Department of Community Health, CMS has

agreed to allow reimbursement to those health professionals initially licensed or registered between May 1, 2006, and October 1, 2008, providing a criminal history check using ICHAT (which uses a person's name to check for past criminal convictions) is conducted. That has been completed.

FISCAL IMPACT:

The Department does confirm the possibility of a federal Medicaid disallowance of \$15.0 million Gross representing payments made to health professionals licensed between May 1, 2006, and October 1, 2008. Staff have also indicated that additional payment disallowances may be identified for payments that continue to be made to some 1,600 licensees. Financial exposure to the State would be for only the federal portion of the gross payments and may be estimated at \$9.0 million.

POSITIONS:

The Bureau of Health Professions within LARA indicated support for the bill. (2-16-12)

The Michigan Department of Community Health indicated support for the bill. (2-16-12)

The Michigan Association of Health Plans indicated support for the bill. (2-16-12)

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