



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 1038 (as enacted)
Sponsor: Senator Jim Stamas
Senate Committee: Oversight
House Committee: Families, Children, and Seniors

PUBLIC ACT 612 of 2018

Date Completed: 3-18-19

RATIONALE

The Michigan Medicaid program reimburses nursing facilities in the State for Medicaid-approved services. Each facility must submit to the Michigan Department of Health and Human Services (DHHS) an annual cost report that contains the expenses the facility incurred, and an accounting for those expenses. A report must be submitted within five months after the end of the facility's fiscal year. The State audits the reports to ensure the facility's reimbursements have been for Medicaid-eligible expenses. After completing an audit, the DHHS will issue a "settlement", which is the process of reconciling a cost report with the audit. Settlements may require a facility to repay the State for costs that the audit determines are not eligible for reimbursement. Evidently, there has been an issue with cost reports not being audited in a timely manner, which has caused a backlog of outstanding audits and settlements. It was suggested that the cost report audit and settlement process be revised to better ensure timely completion of audits and settlements.

CONTENT

The bill amends the Social Welfare Act to require the Department of Health and Human Services to do the following:

- **Accept a Medicaid cost report filed by a nursing facility within 60 calendar days after the facility has filed the report.**
- **Ensure that a Medicaid cost report audit is complete within 21 months after the report was initially filed.**
- **Complete an audit settlement within 60 calendar days after the provider accepts the final summary of audit adjustment.**
- **Accept a cost report filed by a nursing facility, if an audit is not completed within 21 months, and move to settlement.**
- **Finalize all outstanding cost report audits and settlements within two years after the bill's effective date, and accept as filed any cost reports that are not audited within the two-year period.**
- **Provide auditor education to ensure consistency in application of DHHS policy.**
- **Submit to the Legislature and the Senate and House Fiscal Agencies an annual report concerning the cost report audit and settlement process, beginning two years after the bill's effective date.**

The bill also requires a nursing facility to make certain documentation available to an auditor.

The will take effect on June 26, 2019.

Medicaid Cost Report

The bill requires the Department of Health and Human Services to accept a Medicaid cost report filed by a nursing facility within 60 calendar days after the facility had filed the report.

"Medicaid cost report" or "cost report" means the cost of care reports submitted annually by a nursing facility that is participating in the Medicaid program at a utilization rate on average of at least six Medicaid residents, on DHHS cost reporting forms. A nursing facility provider with fewer than six Medicaid residents per day must file a "less than complete" cost report and is not subject to audit.

Audit & Settlement

The bill requires the DHHS to ensure that an audit of a Medicaid cost report filed by a facility performed by the DHHS is completed within 21 months after final acceptance of the report. The settlement for an audit must be delivered to the provider within 60 calendar days after the provider accepts the final summary of audit adjustments. If a provider fails to release the records necessary to verify a specific cost report expense within 15 business days of written request from the DHHS, the Department may disallow the cost associated with the item in question. The 21-month time period does not include time associated with an appeal or a charge of fraud filed against the provider.

"Audit" means a review of the financial records used to complete a Medicaid cost report for compliance with allowable cost principles and other policy contained in the Medicaid Provider Manual. The term includes a limited-scope audit or an on-site audit. An audit could be of limited or full scope.

"Settlement" means the process of reconciling a nursing facility's interim payments based on filed cost report data to audited cost report data. A final settlement is computed after the cost report has been audited.

An on-site audit may be performed at an individual nursing facility or at the corporate office if a home office cost report is filed. An on-site audit may not last more than 30 calendar days per cost report year for an individual facility, or more than 180 days per cost report year for more than six commonly-owned or controlled facilities, unless the nursing facility agrees to an extended timeline. A limited-scope audit must be performed in the years an on-site audit is not performed. The on-site audit must be completed within the 21-month period described above.

A customer satisfaction survey must be provided to the nursing facilities that have completed audits in the previous quarter.

A nursing facility must make available to an auditor documentation required in accordance with the Medicaid State Plan, the Medicaid Provider Manual, and the Code of Federal Regulations relating to Medicare or Medicaid. A nursing facility must enhance use of electronic documents and correspondence to exchange information to reduce time and travel required for nursing facility audits.

If an audit is not completed within 21 months, the DHHS must accept the cost report as filed and move to settlement.

The Department must provide auditor education to ensure consistency in application of DHHS policy. The Department must include an ongoing discussion of all audit adjustments to ensure consistency in applying DHHS policy and must identify and eliminate any inconsistencies between offices with this training.

Within two years after the bill's effective date, the DHHS must finalize all audits and settlements for cost reports that have been filed since before the bill's effective date. A cost report that the

DHHS has not completed within the two-year period must be accepted by the DHHS as filed by the nursing facility, and a cost report settlement must be issued within 60 calendar days after acceptance.

Report to Legislature

Beginning two years after the bill's effective date, the DHHS must provide to the appropriate stakeholders, including at least one representative from each nursing facility provider trade association, an annual report on the implementation and results of the cost report audit and settlement process established under the bill. The report must include both of the following:

- The number of limited-scope audits, on-site audits, and any other type of audit performed during the reporting period.
- Results of the audit satisfaction surveys and how the DHHS had responded to them.

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ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Not completing audits and settlements in a timely and efficient manner is an ongoing issue. Audits may take several years to begin, leaving facilities unaware of possible financial liability. The bill requires the Department of Health and Human Services to accept a cost report within 60 days after it has been filed by a provider; complete an audit within 21 months from the date of filing a cost report; and complete a settlement within 60 days after completing the audit. These timeframes will ensure a more timely and efficient process going forward.

Requiring the timely completion of future audits, however, does not address the problem of the current backlog of uncompleted audits. According to testimony provided before the Senate Committee on Oversight, currently, the inefficiencies in the audit process have resulted in a backlog of over 1,200 outstanding cost reports dating back to 2013. The bill addresses this issue by requiring the DHHS to complete all outstanding audits within two years after the bill's effective date. If a cost report filed by a provider has not been audited within the two-year time period, it must be accepted as filed. This will ensure that the DHHS is held accountable for not fulfilling its responsibilities.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill, which addresses nursing facility audits, will have a minor fiscal impact. There likely will be some marginal administrative savings for nursing facilities, including county Medical care facilities. There is potential for further increased costs if the 21-month acceptance timeline expires and cost reports that otherwise would have gone through a settlement process instead must be accepted as filed.

Fiscal Analyst: Steve Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.