



The Alaska Association on Developmental Disabilities

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To facilitate a united provider voice for best practices, advocacy, partnerships and networking.

February 26, 2016

Senator Anna MacKinnon
State Capital
Juneau, AK 99801

Re: Comments on CSSB74 Version V Medicaid False Claims and Reporting Act 2/25/16

Dear Senator MacKinnon,

Thank you for the opportunity for our Vice President, Michael Bailey to offer a verbal presentation to your committee during the public comment session yesterday. On behalf of AADD, I am submitting a written version of the following points we wished to present.

1. Protections for self-reporting.

Sec. 16. AS 47.05.235 (b) (p17)

AADD appreciates the added protection against interest or penalties for self-identified overpayments following a specific audit that are currently in Sec 16., specifically “The department may not assess interest or penalties on an overpayment identified and repaid by a medical assistance provider under this section.”

Providers are first line of defense against false claims and fraud against Medicaid. Many providers are nationally accredited and have implemented policies designed to prevent false claims and maintain integrity of the service delivery system.

AADD requests that this same language is added to Sec 3. AS 09.58.010 (b) (p3) to read:

“A beneficiary of an intentional or inadvertent submission of a false or fraudulent claim under the medical assistance program who later discovers the claim is false or fraudulent shall disclose the false or fraudulent claim to the state nor later than 60 days after discovering the false claim. The department may not assess interest or penalties on an

overpayment self-identified and repaid by a medical assistance provider under this section.”

2. Reasonable audit size requirements.

Sec 16. AS 47.05.235 (a) (p17)

States that the “medical assistance provider shall conduct at least one annual review or audit of all claims submitted to the department for reimbursement”.

This requirement will create an onerous administrative burden on providers which is not currently paid for in the Medicaid rates. AADD recommends an adjustment of language to “at least one annual review or audit of a statistically valid sample of all claims submitted”.

3. Reasonable statute of limitations.

Sec 1 AS.09.010.075 (p2)

AADD expresses concern with the reporting time frames (6 years for person to bring action, or 3 years for State of Alaska). Extended litigation processes will be expensive for providers, and presents significant risk of the loss of provider options for recipients. Smaller providers will be driven out of business because they cannot withstand this level of exposure.

Most organizations have experienced disgruntled employees who have been disciplined or discharged for their wrongful actions. An employee with criminal intent may manipulate this section (as a “whistleblower”) to retaliate against an organization, or to conceal their own wrongful acts, so the organization may not be the first to identify the issue. AADD recommends removal of this section or the reduction of the time limits to avoid unintended consequences of eliminating choice of providers for recipients.

4. More precise definition of agent.

Sec 3 AS 09.58.010 (e) (p4)

AADD expresses concern with lack of definition of “agent” who “acted with apparent authority.” The remoteness of Alaska does not allow for every fieldworker to be micro-managed, so many providers have established Standard Operating Procedures and Policies (also required for accreditation compliance) that indicate expected behavior of employees. These include fraud and false claims prevention. An employee who acts outside of established company policies should not be considered an agent.

AADD recommends modification of this section (and clearly defining “agent”) to exclude organizations from actions by rogue employees who acted outside of established company policies. Suggested language may be:

“An agent with apparent authority is defined as a paid representative of the principal, who holds a position with decision-making authority to influence or change established Standard Operating Procedures or Policies”.

5. Additional qualification for auditors.

Sec 14. AS 47.05.200 (a) (p16)

AADD requests the addition of “expertise in the health care industry” to the qualifications of an audit contractor. It is the experience of providers that auditors without an understanding of health care will incorrectly assess overpayments, resulting in inefficiencies and waste related to clarifying and defending accurate claims.

Please feel free to contact me if you have any questions or seek additional clarification of these points.

Sincerely,

A handwritten signature in cursive script that reads "Lizette Stiehr". The ink is dark and the signature is fluid.

Lizette Stiehr
Executive Director