

MEMORANDUM

A.6813-C (Paulin)/S.5329-E (Harckham)

AN ACT to amend the public health law and the social services law, in relation to the functions of the Medicaid inspector general with respect to audit and review of medical assistance program funds and requiring notice of certain investigations

LeadingAge New York supports the passage of A.6813-C (Paulin)/S.5329-E (Harckham), which would provide due process protections to health care providers and recipients in the medical assistance program when under scrutiny by the Office of the Medicaid Inspector General (OMIG).

This legislation aims to codify into law appropriate procedures, practices and standards as they relate to OMIG oversight and audits of payments and overpayments. It specifies that in conducting reviews or audits, the inspector shall apply the laws, regulations, policies, guidelines, standards and interpretations of the state agency with jurisdiction and in effect at the time that the applicable regulated conduct took place. Solidifying these best-practices into law, in addition to the others included in this legislation, is especially important for audits related to timeframes that may have been impacted by confusing, contradictory, and fast-changing requirements and guidance during to the pandemic.

In addition, the bill would allow providers to correct technical defects or other minor errors prior to any recovery being made, a common sense approach that would reduce penalties on financially strapped long-term care providers for clerical mistakes. As long as it is clear that there was no intent to falsify or defraud a claim and other conditions are met, providers would be permitted an opportunity to correct the mistake and resubmit the claim within sixty days of notice from the inspector. It would also prevent duplicative audits of the same information within three years without good cause and help ensure that providers are made aware of the audit protocols that OMIG employs.

As the bill's legislative memo indicates, OMIG audits that punish providers for technical errors, not fraud, do not help anyone in the Medicaid system, especially when those errors are the result of contradictory guidance provided by different state agencies. Recovering thousands of dollars in claims for services that a provider delivered due to a minor billing deficiency only serves to push non-profit, mission-driven long-term care providers closer to closure, which ultimately harms our older adults and their access to quality aging services.

For these reasons, LeadingAge NY supports A.6813-C (Paulin)/S.5329-E (Harckham) and urges that it be adopted.

LeadingAge New York represents over 400 not-for-profit and public long-term care providers, including nursing homes, home care agencies, senior housing, retirement communities, assisted living, adult care facilities, adult day health care and managed long term care.

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