

House Bill 206 (AS PASSED HOUSE AND SENATE)

By: Representatives Kelley of the 16th, Welch of the 110th, Collins of the 68th, Oliver of the 82nd, Hogan of the 179th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 26-4-118 of the Official Code of Georgia Annotated, "The Pharmacy
2 Audit Bill of Rights," so as to provide for requirements relating to certain audits conducted
3 by the Department of Community Health; to amend Article 7 of Chapter 4 of Title 49 of the
4 Official Code of Georgia Annotated, relating to medical assistance generally, so as to provide
5 that clerical or other errors do not constitute a basis to recoup payments made by providers
6 of medical assistance; to provide for a correction period; to provide for a right to a hearing;
7 to provide for applicability; to provide for an increase in the personal needs allowance to be
8 deducted from a nursing home resident's income; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Code Section 26-4-118 of the Official Code of Georgia Annotated, "The Pharmacy Audit Bill
13 of Rights," is amended by revising subsection (g) as follows:

14 "(g) The provisions of paragraph (3) of subsection (b) of this Code section shall not apply
15 to the Department of Community Health conducting audits under Article 7 of Chapter 4 of
16 Title 49; provided, however, that the provisions of Code Section 49-4-151.1 shall apply to
17 such audits conducted by the Department of Community Health under Article 7 of
18 Chapter 4 of Title 49."

19 style="text-align:center">**SECTION 2.**

20 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
21 medical assistance generally, is amended by adding a new Code section to read as follows:

22 "49-4-151.1.

23 (a) Any clerical or record-keeping error, including but not limited to a typographical error,
24 scrivener's error, or computer error; any unintentional error or omission in billing, coding,
25 or required documentation; or any isolated instances of incomplete documentation by a

26 provider of medical assistance regarding reimbursement for medical assistance may not in
 27 and of itself constitute fraud or constitute a basis to recoup payment for medical assistance
 28 provided, so long as any such errors or instances do not result in an improper payment. An
 29 improper payment includes any payment that was made to an ineligible recipient, payment
 30 for noncovered services, duplicate payments, payments for services not received, payments
 31 that are for the incorrect amount, and instances when the department is unable to discern
 32 whether a payment was proper because of insufficient or lack of documentation. The
 33 department or its agents shall not recoup the cost of medical assistance if such error,
 34 omission, or incomplete documentation has been resolved in accordance with
 35 subsection (b) of this Code section; provided, however, that recoupment shall be allowed
 36 to the extent that the error, omission, or incomplete documentation resulted in an improper
 37 payment, though recoupment shall be limited to the amount improperly paid.

38 (b) A provider of medical assistance shall be allowed 30 calendar days following receipt
 39 by the provider of a preliminary audit review report in which to submit records or
 40 documents to correct an error or omission or to complete documentation identified in such
 41 review report; provided, however, that the department or its agents, in the discretion of the
 42 department, may reject the submission of a corrected record or document if the submission
 43 would result in an improper payment, or the provider demonstrates a pattern of repeated
 44 errors, omissions, or incomplete documentation. The department shall be authorized to
 45 establish rules and regulations delineating what constitutes a pattern of repeated errors,
 46 omissions, or incomplete documentation taking into consideration the type of provider;
 47 frequency of audits; volume of claims submitted by a provider; type of error, omission, or
 48 incomplete documentation; and other pertinent factors.

49 (c) A provider of medical assistance shall be afforded the right to a hearing in accordance
 50 with Code Section 49-4-153 for any attempted withholding of reimbursement or
 51 recoupment by the department or its agents relating to an error, omission, incomplete
 52 documentation, or improper payment relating to the provision of medical assistance.

53 (d) This Code section shall not apply to criminal or civil investigations which involve
 54 fraud, willful misrepresentation, reckless disregard, or abuse conducted by the Attorney
 55 General's Medicaid Fraud Control Unit or other law enforcement agencies."

56 **SECTION 3.**

57 Said article is further amended in Code Section 49-4-142, relating to modification of the state
 58 plan, by adding a new subsection to read as follows:

59 "(d) The department shall, upon state appropriations, implement a modification of the state
 60 plan for medical assistance or any affected rules or regulations of the department, which

61 modification shall provide that, in determining the amount of a recipient's income that is
62 to be applied to payment for the costs of care in a nursing home, there shall be deducted
63 a personal needs allowance of not less than \$70.00 per month which shall include the
64 minimum amount required by 42 U.S.C. Section 1396a(q)(2)."

65 **SECTION 4.**

66 All laws and parts of laws in conflict with this Act are repealed.