

SENATE BILL 510

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By: **Senator Shank**

Introduced and read first time: February 4, 2011

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Recovery Audits**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to enter
4 into certain contracts to conduct certain recovery audits of payments made by
5 the Maryland Medical Assistance Program; requiring a certain consultant to
6 include in its recovery audit certain payments made by the Program; specifying
7 requirements for certain contracts; requiring the Department to provide certain
8 information to certain persons under certain circumstances; prohibiting certain
9 persons from disclosing certain information; establishing a certain penalty;
10 requiring the Department to adopt regulations that specify certain
11 compensation; requiring the Department to return certain money to the federal
12 government; requiring the Department to provide a copy of a certain report to
13 the Governor, the Office of Legislative Audits, and certain committees of the
14 General Assembly at a certain time; requiring the Department to issue a certain
15 report to the General Assembly on or before a certain date each year; defining a
16 certain term; and generally relating to recovery audits and the Maryland
17 Medical Assistance Program.

18 BY adding to

19 Article – Health – General

20 Section 15–901 through 15–905 to be under the new subtitle “Subtitle 9.
21 Recovery Audits”

22 Annotated Code of Maryland

23 (2009 Replacement Volume and 2010 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Health – General**

27 **SUBTITLE 9. RECOVERY AUDITS.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **15-901.**

2 IN THIS SUBTITLE, "RECOVERY AUDIT" MEANS A FINANCIAL
3 MANAGEMENT TECHNIQUE USED TO IDENTIFY OVERPAYMENTS MADE BY THE
4 PROGRAM.

5 **15-902.**

6 (A) THE DEPARTMENT SHALL ENTER INTO CONTRACTS WITH PRIVATE
7 CONSULTANTS TO CONDUCT PERIODIC RECOVERY AUDITS OF PAYMENTS MADE
8 BY THE PROGRAM.

9 (B) A CONSULTANT THAT THE DEPARTMENT CONTRACTS WITH UNDER
10 THIS SUBTITLE SHALL INCLUDE IN ITS RECOVERY AUDIT THE FOLLOWING
11 PAYMENTS MADE BY THE PROGRAM:

12 (1) MEDICAL CLAIMS;

13 (2) PHARMACEUTICAL CLAIMS; AND

14 (3) DENTAL CLAIMS.

15 (C) A CONTRACT REQUIRED UNDER THIS SECTION:

16 (1) MAY PERMIT OR REQUIRE A PRIVATE CONSULTANT TO
17 PURSUE A JUDICIAL ACTION TO RECOVER AN AMOUNT OVERPAID BY THE
18 PROGRAM; AND

19 (2) MAY NOT ALLOW A RECOVERY AUDIT UNDER THIS SECTION
20 DURING THE 90-DAY PERIOD AFTER THE DATE THE PAYMENT WAS MADE BY THE
21 PROGRAM.

22 **15-903.**

23 (A) THE DEPARTMENT SHALL PROVIDE A PERSON ACTING UNDER A
24 CONTRACT REQUIRED UNDER § 15-902 OF THIS SUBTITLE WITH ANY
25 CONFIDENTIAL INFORMATION NECESSARY FOR THE PERFORMANCE OF THE
26 RECOVERY AUDIT UNLESS THE DEPARTMENT IS PROHIBITED FROM SHARING
27 THE INFORMATION UNDER AN AGREEMENT WITH ANOTHER STATE OR WITH THE
28 FEDERAL GOVERNMENT.

29 (B) (1) A PERSON ACTING UNDER A CONTRACT REQUIRED UNDER §
30 15-902 OF THIS SUBTITLE MAY NOT DISCLOSE ANY CONFIDENTIAL

1 INFORMATION OBTAINED FROM THE PROGRAM DURING A RECOVERY AUDIT,
2 EXCEPT AS IS AUTHORIZED UNDER STATE AND FEDERAL LAW.

3 (2) A PERSON THAT VIOLATES THIS SUBSECTION IS GUILTY OF A
4 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
5 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

6 15-904.

7 (A) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT SPECIFY
8 REASONABLE COMPENSATION FOR SERVICES PROVIDED UNDER A CONTRACT
9 FOR A RECOVERY AUDIT, BASED ON A SPECIFIED PERCENTAGE OF THE TOTAL
10 AMOUNT RECOVERED FROM THE RECOVERY AUDIT.

11 (B) THE DEPARTMENT SHALL RETURN TO THE FEDERAL GOVERNMENT
12 ANY FEDERAL MONEY THAT IS RECOVERED THROUGH A RECOVERY AUDIT.

13 15-905.

14 (A) NO LATER THAN 7 BUSINESS DAYS AFTER THE DEPARTMENT
15 RECEIVES A REPORT FROM A CONSULTANT DESCRIBING THE FINAL
16 CONCLUSIONS OF A RECOVERY AUDIT CONDUCTED UNDER THIS SUBTITLE, THE
17 DEPARTMENT SHALL PROVIDE A COPY OF THE REPORT TO:

18 (1) THE GOVERNOR;

19 (2) THE OFFICE OF LEGISLATIVE AUDITS, IN ACCORDANCE WITH
20 § 2-1246 OF THE STATE GOVERNMENT ARTICLE; AND

21 (3) THE SENATE BUDGET AND TAXATION COMMITTEE AND THE
22 HOUSE APPROPRIATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE
23 STATE GOVERNMENT ARTICLE.

24 (B) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT
25 SHALL ISSUE A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §
26 2-1246 OF THE STATE GOVERNMENT ARTICLE, THAT DESCRIBES THE
27 CONTENTS OF ALL RECOVERY AUDIT REPORTS RECEIVED DURING THE
28 PREVIOUS FISCAL YEAR.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2011.