

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2355 Session of 2020

INTRODUCED BY SANKEY, GROVE, KAUFER, GAYDOS, OWLETT, THOMAS, JONES, MILLARD, BERNSTINE, RYAN, WHEELAND, SAYLOR, COX, MOUL, KEEFER, KLUNK, DUSH, B. MILLER AND RADER, APRIL 3, 2020

REFERRED TO COMMITTEE ON HUMAN SERVICES, APRIL 3, 2020

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," in public assistance,  
4 providing for duties of medical assistance managed care  
5 organizations.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. The act of June 13, 1967 (P.L.31, No.21), known  
9 as the Human Services Code, is amended by adding a section to  
10 read:

11 Section 449.1. Duties of Medical Assistance Managed Care  
12 Organizations.--(a) No less than ninety days after the  
13 effective date of this section, a medical assistance managed  
14 care organization that provides services or seeks to provide  
15 services under the medical assistance program shall enter into  
16 an agreement with the department as specified under this  
17 section.

18 (b) An agreement under subsection (a) shall authorize the  
19 department to recover any loss incurred by the department as a

1 result of a medical assistance managed care organization's  
2 failure to do any of the following:

3 (1) Comply with the terms of the medical assistance managed  
4 care organization's contract with the department.

5 (2) Comply with Federal or State regulations regarding  
6 services provided by the medical assistance managed care  
7 organization through the medical assistance program.

8 (c) An agreement under subsection (a) shall require a  
9 medical assistance managed care organization to comply with all  
10 of the following:

11 (1) Cease to expend money from the medical assistance  
12 program to make payments for claims that constitute provider  
13 preventable conditions that occurred during inpatient  
14 procedures.

15 (2) Annually review all inpatient services to determine if  
16 money paid under the medical assistance program was prohibited  
17 because the payments were for claims that constitute provider  
18 preventable conditions.

19 (d) The department shall require a medical assistance  
20 managed care organization to document and review all of the  
21 following:

22 (1) Claims for inpatient services that were paid under the  
23 medical assistance program to determine if the payments were for  
24 claims that constitute provider preventable conditions.

25 (2) Claims for behavioral services that were paid under the  
26 medical assistance program to determine if the payments were for  
27 claims that constitute provider preventable conditions.

28 (e) Upon request by the department, a medical assistance  
29 managed care organization shall provide the department with any  
30 documents associated with the medical assistance managed care

1 organization's review under subsection (d).

2 (f) Upon examining documents provided under subsection (e),  
3 if the department determines that a medical assistance managed  
4 care organization has not kept adequate records to stop the  
5 payment of claims that constitute provider preventable  
6 conditions, the department shall impose a fine of no less than  
7 0.5% and no more than 5% of the total claims from medical  
8 assistance managed care organizations from the medical  
9 assistance program.

10 (g) Upon examining documents provided under subsection (e),  
11 if the department determines that a medical assistance managed  
12 care organization paid claims that constitute provider  
13 preventable conditions, the department shall have the following  
14 duties:

15 (1) If a claim which constituted a provider preventable  
16 condition was paid by the medical assistance program under the  
17 fee for service model, the department shall require the medical  
18 assistance managed care organization to reimburse the department  
19 for an amount equal to the total amount of payments for claims  
20 that constitute provider preventable conditions.

21 (2) If a medical assistance managed care organization fails  
22 to disclose payments for claims that constitute provider  
23 preventable conditions, the department shall:

24 (i) require the medical assistance managed care organization  
25 and the medical assistance managed care organization to  
26 reimburse the department for the total amount of payments for  
27 claims that constitute provider preventable conditions; and

28 (ii) impose an additional fine of up to 5% of the total  
29 amount of payments for claims that constitute provider  
30 preventable conditions made by the medical assistance managed

1 care organization.

2 (3) If a claim which constituted a provider preventable  
3 condition was paid by the medical assistance program as a  
4 capitated payment, the department shall adjust the capitated  
5 payment rate for the medicaid managed care organization that  
6 paid the claim for a provider preventable condition during the  
7 next fiscal year.

8 (h) As used in this section, the following words and phrases  
9 shall have the meanings given to them in this subsection:

10 "Medical assistance managed care organization" means a  
11 Medicaid managed care organization as defined in section 1903(m)  
12 (1)(A) of the Social Security Act (49 Stat. 620, 42 U.S.C. §  
13 1903(m)(1)(A)) that is a party to a Medicaid managed care  
14 contract with the department to provide physical or behavioral  
15 health services.

16 "Provider preventable conditions" means any of the following:

17 (1) A condition acquired in any inpatient setting that is  
18 considered to have a high cost or occur in a high volume.

19 (2) A surgical or invasive procedure performed on the wrong  
20 patient.

21 (3) A surgical or invasive procedure performed on the wrong  
22 body part of a patient.

23 Section 2. This act shall take effect in 60 days.