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HOUSE BILL NO. 892

Offered January 24, 2000

A *BILL to amend and reenact § 32.1-325.1 of the Code of Virginia, relating to Medicaid adverse determinations.*

Patrons—Woodrum, DeBoer and Hamilton

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-325.1 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-325.1. Adverse initial determination of overpayment; appeals of agency determinations.

A. The Director shall make an initial determination as to whether an overpayment has been made to a provider in accordance with the state plan for medical assistance, the provisions of § 9-6.14:11 and applicable federal law. Once a determination of overpayment has been made, the Director shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 from the date the Director's determination becomes final. Nothing in § 32.1-313 shall be construed to require interest payments on any portion of overpayment other than the unpaid balance referenced herein. In any case in which an initial determination of overpayment has been reversed in a subsequent agency or judicial proceeding, the provider shall be reimbursed that portion of the payment to which he is entitled plus any applicable interest.

B. An appeal of the Director's initial determination concerning provider reimbursement shall be heard in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) and the state plan for medical assistance provided for in § 32.1-325. Court review of final agency determinations concerning provider reimbursement shall may be made (i) in accordance with the Administrative Process Act: ~~This provision shall apply to all administrative appeals pending as of its effective date in which no agency hearing has been held~~ or (ii) by filing a *de novo* action in the appropriate circuit court pursuant to Article 18 (§ 8.01-192 et seq.) of Chapter 3 of Title 8.01. In any *de novo* civil action in which any person contests any action of the Department, such person shall be entitled to recover from the Department (a) reasonable costs and attorneys' fees, not to exceed \$25,000, if such person substantially prevails on the merits of the case and the agency's position is not substantially justified, unless special circumstances would make an award unjust, and (b) interest at the legal rate on any claim against the Department from the date the court finds payment from the Department was justly due. The provisions of clause (ii) of this subsection shall apply to all pending and future administrative appeals.

INTRODUCED

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