

LD1643813

HOUSE BILL NO. 1160

Offered January 25, 1994

A BILL to amend and reenact §§ 32.1-325.1 and 32.1-325.1:1 of the Code of Virginia, relating to overpayment for medical assistance services.

Patrons—Albo, Fisher, Forbes, Giesen, Howell, McClure, O'Brien, Orrock, Parrish, Purkey, Wagner, Wardrup and Wilkins

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

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

§ 32.1-325.1. Adverse determination of overpayment; appeals of agency determinations. A. The ~~Director~~ *Department* shall make ~~an initial~~ *a* 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~~ *Department* 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 of the ~~Director's Department'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~~ *the* 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~~ *Department's* 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 be made 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.

C. *For the purposes of this chapter, a determination shall be deemed to occur on the date of issuance of a notice of amount of program reimbursement (NPR).*

§ 32.1-325.1:1. Definitions; recovery of overpayment for medical assistance services.

A. For the purposes of this ~~section~~ *chapter*, the following definitions shall apply:

"Agreement" means any contract executed for the delivery of services to recipients of medical assistance pursuant to subsection C of § 32.1-325.

"*Determination*" means a notice of the amount of program reimbursement (NPR) issued pursuant to a provider's filed cost report.

"*Initial determination*" means the first notice of the amount of program reimbursement (NPR) issued pursuant to a provider's filed cost report.

"Successor in interest" means any person as defined in § 1-13.19 of this Code having stockholders, directors, officers, or partners in common with a health care provider for which an agreement has been terminated.

"Termination" means (i) the cessation of operations by a provider, (ii) the sale or transfer of the provider, (iii) the reorganization or restructuring of the health care provider, or (iv) the termination of an agreement by either party.

B. The ~~Director~~ *Department* of Medical Assistance Services shall collect by any means available ~~to him~~ at law any amount owed to the Commonwealth because of overpayment for medical assistance services. Upon making ~~an initial~~ *a* determination that an overpayment has been made to the provider pursuant to § 32.1-325.1, the Director *or his designee* shall notify the provider of the amount of the overpayment. ~~Such~~ *An* initial determination shall be made within ~~the earlier~~ of (i) four years *from the sale or transfer of the facility or termination of the provider*, or (ii) fifteen months after filing of the final cost report by the provider subsequent to sale of the facility or termination of the provider. The provider shall make arrangements satisfactory to the Director to repay the amount due. If the provider fails or refuses to make arrangements satisfactory to the Director for such repayment or fails or refuses to repay the Commonwealth for the amount due for overpayment in a timely manner, the Director may devise a schedule for reducing the Medicaid reimbursement due to any successor in interest.

C. In any case in which the Director is unable to recover the amount due for overpayment pursuant

INTRODUCED

HB1160

60 to subsection B, he shall not enter into another agreement with the responsible provider or any person
61 who is the transferee, assignee, or successor in interest to such provider unless (i) he receives
62 satisfactory assurances of repayment of all amounts due or (ii) the agreement with the provider is
63 necessary in order to ensure that Medicaid recipients have access to the covered services rendered by the
64 provider.

65 *Further, to the extent consistent with federal and state law, the Director shall not enter into any*
66 *agreement with a provider having any stockholder, partner, director, officer, or owner in common with*
67 *a provider which has terminated a previous agreement for participation in the medical assistance*
68 *services program without making satisfactory arrangements to repay all outstanding Medicaid*
69 *overpayment.*