

HOUSE No. 1141

By Mr. Kennedy of Brockton, petition of Thomas P. Kennedy relative to audits of providers rendering services to persons eligible for MassHealth benefits. Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT TO STREAMLINE AUDITS OF PROVIDERS RENDERING SERVICES TO PERSONS ELIGIBLE FOR MASSHEALTH BENEFITS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 118E of the General Laws as appearing in the 2002
2 Official Edition is hereby amended by adding after section 52 the
3 following section:

4 Section 53. Notwithstanding the provisions of any general or
5 special law or regulation to the contrary, the authority of the office
6 of medicaid and of the division of health care finance and policy to
7 audit a provider rendering services to any person(s) eligible for
8 MassHealth benefits shall be subject to the following limitations:

9 (1) Any audit shall be concluded within four years from the date
10 a provider renders a service(s) or submits a completed cost report
11 affecting the provider's payment for a service(s), whichever is
12 earlier. An audit shall be deemed concluded by the issuance of a
13 final audit report by the agency conducting the audit.

14 (2) A provider in receipt of a final audit report within the time
15 frame specified in subsection (1) may serve on the agency issuing
16 said final audit report a Notice of Objection to Audit Findings. Said
17 Notice of Objection to Audit Findings shall specify each audit
18 finding or item with respect to which the provider objects and shall
19 be served on the agency issuing the final audit report within thirty
20 (30) days of the provider's receipt of said final audit report.

21 A provider may serve a Notice of Objection to Audit Findings
22 regardless of whether any audit finding or item in a final audit report
23 has been incorporated into a rate of payment applicable to the
24 provider.

25 (3) So long as a provider has timely served a Notice of Objection
26 to Audit Findings under subsection (2), the office of Medicaid shall
27 neither directly nor indirectly recoup or recover from the provider
28 any monies relating to any finding or item in the final audit report to
29 which the Notice of Objection to Audit Findings applies until the
30 provider, if it has filed a Notice of Claim for an Adjudicatory
31 Hearing under subsection (4), has been afforded an adjudicatory
32 hearing as provided for in said subsection (4), and a decision has
33 issued following said adjudicatory hearing.

34 (4) A provider timely serving a Notice of Objection to Audit
35 Findings under subsection (2) shall be entitled to an adjudicatory
36 hearing before the division of administrative law appeals with
37 respect to any audit finding or item challenged in said Notice of
38 Objection to Audit Findings if said provider, within the thirty (30)
39 day period set forth in said subsection (2), files a Notice of Claim for
40 an Adjudicatory Hearing before said division of administrative law
41 appeals to which is appended said Notice of Objection to Audit
42 Findings. The division of administrative law appeals shall expedite
43 an adjudicatory hearing on any Notice of Claim for an Adjudicatory
44 Hearing filed under this subsection (4) so that said adjudicatory
45 hearing and the division's decision thereon is concluded within three
46 (3) months of said filing. A party aggrieved by a decision of the
47 division of administrative law appeals under this subsection (4) shall
48 be entitled to seek judicial review of said decision under section 14
49 of chapter 30A of the General Laws. A provider afforded an adjudicatory
50 hearing under this subsection (4) shall not be entitled to relitigate
51 in the context of a rate appeal under section 9 of chapter 118G
52 of the General Laws, any audit finding or item set forth in the final
53 audit report giving rise to the provider's Notice of Objection to
54 Audit Findings appended to its Notice of Claim for an Adjudicatory
55 Hearing.

56 (5) The office of Medicaid and the division of health care finance
57 and policy shall not subject a provider of services to duplicative
58 audits.

59 (6) An agency issuing a final audit report under subsection (1)
60 may at any time, in writing, reverse an audit finding or item to which
61 a provider has raised objection. A final audit report issued under
62 subsection (1) may not be amended by the issuing agency to add any

63 new or additional audit finding or item unless said new additional
64 finding or item corrects a mechanical error or is necessary to redress
65 a provider's fraud.