HOUSE . . . . . No. 1142

By Mr. Kennedy of Brockton, petition of Thomas P. Kennedy relative to the medical eligibility criteria established by the Division of Medical Assistance for nursing facilities serving pediatric patients. Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO ELIGIBILITY CRITERIA FOR NURSING HOMES SERVING PEDIATRIC RESIDENTS.

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

SECTION 1. Section 4J of Chapter 111 of the General Laws is hereby repealed.

SECTION 2. Section 71 of Chapter 111 of the General Laws is hereby amended by inserting after the last paragraph the following paragraphs:—

Notwithstanding any general or special law or regulation to the contrary, no nursing home licensed by the department in whole or in part as a skilled nursing care facility for children shall admit an individual under twenty-two years of age for a period of one hundred days or less unless said individual meets the medical eligibility criteria for nursing facility services established by the division of medical assistance, or receives prior authorization by said individual's private third party health insurer.

Notwithstanding any general or special law or regulation to the contrary, no nursing home licensed by the department in whole or in part as a skilled nursing care facility for children shall admit an individual under twenty-two years of age for a period to exceed one hundred days unless said individual meets the medical eligibility criteria for nursing facility services established by the division of medical assistance and is determined by said division to be a multiply-handicapped child, defined as a person under

twenty-two years of age with physical manifestations of neurologic, musculoskeletal, or organic dysfunction, irrespective of etiology, with the prognoses of significant impairment of growth and development and severe limitation of independent functioning, or unless said individual receives prior authorization by said individual's private third party health insurer. Any individual initially admitted to a skilled nursing care facility for children upon meeting the medical eligibility criteria of the division of medical assistance for a period of one hundred days or less must obtain approval for continued eligibility by said division in order to continue residency in said facility beyond one hundred days. Any individual initially admitted into a skilled nursing facility for children under authorization by a private third party health insurer must obtain approval from the division of medical assistance under the division's medical eligibility criteria for continued residency at said facility prior to the expiration of the third party health insurance coverage.

SECTION 3. Chapter 118E of the General Laws is hereby amended by inserting after Section 14A the following section:—

Section 14B. Notwithstanding any general or special law or regulation to the contrary, the division shall determine medical eligibility for admittance of children under the age of twenty-two to a skilled nursing care facility for children pursuant to regulations codified at 130 Code Mass. Regs. 456.252 as in effect on December 4, 1996.

SECTION 4. Chapter 118E of the General Laws as appearing in the 2002 Official Edition is hereby amended by adding after Section 52 the following section:—

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

(1) Any audit shall be concluded within four years from the date a provider renders a service(s) or submits a completed cost report affecting the provider's payment for a service(s), whichever

is earlier. An audit shall be deemed concluded by the issuance of a final audit report by the agency conducting the audit.

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

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

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

(4) A provider timely serving a Notice of Objection to Audit Findings under subsection (2) shall be entitled to an adjudicatory hearing before the division of administrative law appeals with respect to any audit finding or item challenged in said Notice of Objection to Audit Findings if said provider, within the thirty (30) day period set forth in said subsection (2), files a Notice of Claim for an Adjudicatory Hearing before said division of administrative law appeals to which is appended said Notice of Objection to Audit Findings. The division of administrative law appeals shall expedite an adjudicatory hearing on any Notice of Claim for an Adjudiary Hearing filed under this subsection (4) so that said adjudicatory hearing and the division's decision thereon is concluded within three (3) months of said filing. A party aggrieved by a decision of the division of administrative law appeals under this subsection (4) shall be entitled to seek judicial review of said decision under Section 14 of Chapter 30A of the General Laws. A

52 provider afforded an adjudicatory hearing under this subsection
53 (4) shall not be entitled to relitigate in the context of a rate appeal
54 under Section 9 of Chapter 118G of the General Laws, any audit
55 finding or item set forth in the final audit report giving rise to the
56 provider's Notice of Objection to Audit Findings appended to its
57 Notice of Claim for an Adjudicatory Hearing.
58 (5) The office of medicaid and the division of health care
59 finance and policy shall not subject a provider of services to
60 duplicative audits.
61 (6) An agency issuing a final audit report under subsection (1)
62 may at any time, in writing, reverse an audit finding or item to
63 which a provider has raised objection. A final audit report issued
64 under subsection (1) may not be amended by the issuing agency to
65 add any new or additional audit finding or item unless said new
66 additional finding or item corrects a mechanical error or is neces-
67 sary to redress a provider's fraud.

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