

BILL ANALYSIS

C.S.H.B. 3418
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, there are no set procedures and rules for audits of providers who contract with the Health and Human Services Commission. Many providers who have been audited have not had the opportunity to explain discrepancies to the auditing agencies before having to obtain legal counsel to mediate any audit findings. Thousands of dollars are being spent on legal fees to explain discrepancies to the auditing agencies that could have easily been dealt with through exit interviewing.

The substitute requires the executive commissioner of the Health and Human Services Commission to establish rules regulating provider audits that include, among others, provisions requiring prior notification of audits, time limits regarding the scope of an audit, uniform audit standards and parameters, provider response processes, and reporting time frames. The substitute also establishes an ad hoc peer-review panel of providers (panel) to administer an informal process through which a provider may obtain an early review of the audit report or may appeal an unfavorable audit finding without the need to obtain legal counsel. The panel would provide to the auditing agency a recommendation that is not binding on the agency, to revise or dismiss an unfavorable audit finding that is found to be unsubstantiated.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

The substitute requires an agency conducting an audit to notify the provider no later than the seventh day before the field audit portion of the audit begins as opposed to the original bill which did not specify the type of audit and provides that the period of the audit be limited to three years. It provides that an agency conducting an audit accommodate the provider's schedule to the greatest extent possible when scheduling a field audit. It allows for an entrance and exit interview prior to and at the end of the field audit portion which was not previously stated.

It would also require that an agency use the same standards used when auditing other similar providers in addition to government auditing standards issued by the comptroller general of the United States or other appropriate standards. This clarifies that similar providers standards should be used and provides for the standards of the U.S. comptroller general which was not in the original bill. It would allow a questioned cost to be corrected by providing additional supporting documentation that meets the auditing standards, if there is no indication that the questioned cost demonstrates intent to commit fraud and provides for a preliminary audit report and a copy of any document used to support a proposed adjustment to the provider's cost report.

The substitute also allows a provider to address any exception found during an audit up to the 10th day after the date the field audit portion of the audit is completed and would require the agency conducting the audit to deliver a draft audit report to the provider no later than the 60th day after the date the field audit portion is completed. It would permit the provider to submit to the agency conducting the audit a written management response to the draft audit report or to appeal the findings in the draft audit report no later than the 30th day after the date the draft audit report is delivered to the provider and receive a final audit no later than the 180th day after the field audit portion of the audit is completed.

The committee substitute allows the ad hoc peer review panel to provide to the auditing agency a recommendation that is not binding on the agency, to revise or dismiss an unfavorable audit finding that is found to be unsubstantiated.

It would exempt audits from the State Auditor's Office as well as the federal Office of the Inspector General when investigating fraud as opposed to just the Medicaid fraud control unit of the Attorney General's office as stated in the original bill. The legislation exempts computerized audits conducted by the Medicaid Fraud detection system.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by adding additional requirements that the rules must address. The substitute provides that the period of the audit be limited to three years as opposed to one in the original bill. The substitute adds that this legislation does apply to the a computerized audit that is conducted by the Medicaid Fraud Detection Audit system or an audit conducted by the attorney general's office, state auditor, office of the inspector general in the United States Department of Health and Human Services.