

By: Van de Putte

S.B. No. 630

A BILL TO BE ENTITLED

AN ACT

relating to audits of providers in the medical assistance program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.070 to read as follows:

Sec. 32.070. AUDITS OF PROVIDERS. (a) In this section, "provider" means an individual, firm, partnership, corporation, agency, association, institution, or other entity that is or was approved by the department to provide medical assistance under contract or provider agreement with the department.

(b) The executive commissioner of the Health and Human Services Commission shall adopt rules governing the audit of providers in the medical assistance program.

(c) The rules must:

(1) provide that the agency conducting the audit must notify the provider, and the provider's corporate headquarters, if the provider is a pharmacy that is incorporated, of the impending audit not later than the seventh day before the date the field audit portion of the audit begins;

(2) limit the period covered by an audit to three years;

(3) provide that the agency conducting the audit must accommodate the provider's schedule to the greatest extent possible when scheduling the field audit portion of the audit;

1 (4) require the agency conducting the audit to conduct
2 an entrance interview before beginning the field audit portion of
3 the audit;

4 (5) provide that each provider must be audited under
5 the same standards and parameters as other providers of the same
6 type;

7 (6) provide that the audit must be conducted in
8 accordance with generally accepted government auditing standards
9 issued by the Comptroller General of the United States or other
10 appropriate standards;

11 (7) require the agency conducting the audit to conduct
12 an exit interview at the close of the field audit portion of the
13 audit with the provider to review the agency's initial findings;

14 (8) provide that, at the exit interview, the agency
15 conducting the audit shall:

16 (A) allow the provider to:

17 (i) respond to questions by the agency;

18 (ii) comment, if the provider desires, on
19 the initial findings of the agency; and

20 (iii) correct a questioned cost by
21 providing additional supporting documentation that meets the
22 auditing standards required by Subdivision (6) if there is no
23 indication that the error or omission that resulted in the
24 questioned cost demonstrates intent to commit fraud; and

25 (B) provide to the provider a preliminary audit
26 report and a copy of any document used to support a proposed
27 adjustment to the provider's cost report;

1 (9) permit the provider to produce documentation to
2 address any exception found during an audit not later than the 10th
3 day after the date the field audit portion of the audit is
4 completed;

5 (10) provide that the agency conducting the audit
6 shall deliver a draft audit report to the provider not later than
7 the 60th day after the date the field audit portion of the audit is
8 completed;

9 (11) permit the provider to submit to the agency
10 conducting the audit a written management response to the draft
11 audit report or to appeal the findings in the draft audit report not
12 later than the 30th day after the date the draft audit report is
13 delivered to the provider;

14 (12) provide that the agency conducting the audit
15 shall deliver the final audit report to the provider not later than
16 the 180th day after the date the field audit portion of the audit is
17 completed or the date on which a final decision is issued on an
18 appeal made under Subdivision (13), whichever is later; and

19 (13) establish an ad hoc peer review panel, composed
20 of providers practicing or doing business in this state appointed
21 by the executive commissioner of the Health and Human Services
22 Commission, to administer an informal process through which:

23 (A) a provider may obtain an early review of an
24 audit report or an unfavorable audit finding without the need to
25 obtain legal counsel; and

26 (B) a recommendation to revise or dismiss an
27 unfavorable audit finding that is found to be unsubstantiated may

1 be made by the review panel to the agency, provided that the
2 recommendation is not binding on the agency.

3 (d) This section does not apply to a computerized audit
4 conducted using the Medicaid Fraud Detection Audit System or an
5 audit or investigation of fraud and abuse conducted by the Medicaid
6 fraud control unit of the office of the attorney general, the office
7 of the state auditor, the office of the inspector general, or the
8 Office of Inspector General in the United States Department of
9 Health and Human Services.

10 SECTION 2. Not later than January 1, 2006, the executive
11 commissioner of the Health and Human Services Commission shall
12 adopt rules required by Section 32.070, Human Resources Code, as
13 added by this Act.

14 SECTION 3. If before implementing any provision of this Act
15 a state agency determines that a waiver or authorization from a
16 federal agency is necessary for implementation of that provision,
17 the agency affected by the provision shall request the waiver or
18 authorization and may delay implementing that provision until the
19 waiver or authorization is granted.

20 SECTION 4. This Act takes effect September 1, 2005.