

1-1 By: Van de Putte S.B. No. 630
1-2 (In the Senate - Filed February 21, 2005; March 1, 2005,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; April 28, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 April 28, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 630 By: West

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to audits of providers in the medical assistance program.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Subchapter B, Chapter 32, Human Resources Code,
1-13 is amended by adding Section 32.070 to read as follows:
1-14 Sec. 32.070. AUDITS OF PROVIDERS. (a) In this section,
1-15 "provider" means an individual, firm, partnership, corporation,
1-16 agency, association, institution, or other entity that is or was
1-17 approved by the department to provide medical assistance under
1-18 contract or provider agreement with the department.
1-19 (b) The executive commissioner of the Health and Human
1-20 Services Commission shall adopt rules governing the audit of
1-21 providers in the medical assistance program.
1-22 (c) The rules must:
1-23 (1) provide that the agency conducting the audit must
1-24 notify the provider, and the provider's corporate headquarters, if
1-25 the provider is a pharmacy that is incorporated, of the impending
1-26 audit not later than the seventh day before the date the field audit
1-27 portion of the audit begins;
1-28 (2) limit the period covered by an audit to three
1-29 years;
1-30 (3) provide that the agency conducting the audit must
1-31 accommodate the provider's schedule to the greatest extent possible
1-32 when scheduling the field audit portion of the audit;
1-33 (4) require the agency conducting the audit to conduct
1-34 an entrance interview before beginning the field audit portion of
1-35 the audit;
1-36 (5) provide that each provider must be audited under
1-37 the same standards and parameters as other providers of the same
1-38 type;
1-39 (6) provide that the audit must be conducted in
1-40 accordance with generally accepted government auditing standards
1-41 issued by the Comptroller General of the United States or other
1-42 appropriate standards;
1-43 (7) require the agency conducting the audit to conduct
1-44 an exit interview at the close of the field audit portion of the
1-45 audit with the provider to review the agency's initial findings;
1-46 (8) provide that, at the exit interview, the agency
1-47 conducting the audit shall:
1-48 (A) allow the provider to:
1-49 (i) respond to questions by the agency;
1-50 (ii) comment, if the provider desires, on
1-51 the initial findings of the agency; and
1-52 (iii) correct a questioned cost by
1-53 providing additional supporting documentation that meets the
1-54 auditing standards required by Subdivision (6) if there is no
1-55 indication that the error or omission that resulted in the
1-56 questioned cost demonstrates intent to commit fraud; and
1-57 (B) provide to the provider a preliminary audit
1-58 report and a copy of any document used to support a proposed
1-59 adjustment to the provider's cost report;
1-60 (9) permit the provider to produce documentation to
1-61 address any exception found during an audit not later than the 10th
1-62 day after the date the field audit portion of the audit is
1-63 completed;

2-1 (10) provide that the agency conducting the audit
2-2 shall deliver a draft audit report to the provider not later than
2-3 the 60th day after the date the field audit portion of the audit is
2-4 completed;

2-5 (11) permit the provider to submit to the agency
2-6 conducting the audit a written management response to the draft
2-7 audit report or to appeal the findings in the draft audit report not
2-8 later than the 30th day after the date the draft audit report is
2-9 delivered to the provider;

2-10 (12) provide that the agency conducting the audit
2-11 shall deliver the final audit report to the provider not later than
2-12 the 180th day after the date the field audit portion of the audit is
2-13 completed or the date on which a final decision is issued on an
2-14 appeal made under Subdivision (13), whichever is later; and

2-15 (13) establish an ad hoc peer review panel, composed
2-16 of providers practicing or doing business in this state appointed
2-17 by the executive commissioner of the Health and Human Services
2-18 Commission, to administer an informal process through which:

2-19 (A) a provider may obtain an early review of an
2-20 audit report or an unfavorable audit finding without the need to
2-21 obtain legal counsel; and

2-22 (B) a recommendation to revise or dismiss an
2-23 unfavorable audit finding that is found to be unsubstantiated may
2-24 be made by the review panel to the agency, provided that the
2-25 recommendation is not binding on the agency.

2-26 (d) This section does not apply to a computerized audit
2-27 conducted using the Medicaid Fraud Detection Audit System or an
2-28 audit or investigation of fraud and abuse conducted by the Medicaid
2-29 fraud control unit of the office of the attorney general, the office
2-30 of the state auditor, the office of the inspector general, or the
2-31 Office of Inspector General in the United States Department of
2-32 Health and Human Services.

2-33 SECTION 2. Not later than January 1, 2006, the executive
2-34 commissioner of the Health and Human Services Commission shall
2-35 adopt rules required by Section 32.070, Human Resources Code, as
2-36 added by this Act.

2-37 SECTION 3. If before implementing any provision of this Act
2-38 a state agency determines that a waiver or authorization from a
2-39 federal agency is necessary for implementation of that provision,
2-40 the agency affected by the provision shall request the waiver or
2-41 authorization and may delay implementing that provision until the
2-42 waiver or authorization is granted.

2-43 SECTION 4. This Act takes effect September 1, 2005.

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