

(f) The development of alternative standards for beneficiary eligibility and copayment under Medi-Cal.

(g) The development of a method of response to temporary deficits in the Medi-Cal program that will both control expenditures and, to the extent possible, preserve the availability to beneficiaries of essential health services.

(Added by Stats.1983, c. 960, § 7.)

Article 5.3

AUDIT, APPEAL, AND RECOVERY OF OVERPAYMENTS

Section

- 14170. Audits; controls; cost reports; corrections; payroll records; maintenance.
- 14170.1. Underpayments for pharmaceutical services; credit against overpayments.
- 14170.5. Special claims review period.
- 14171. Findings of audit or examination; administrative appeal processes for tentative or final settlements; informal conferences; time limitations; final decision; interest.
- 14171.5. Receipt of reimbursement to which county is not entitled; interest and penalties.
- 14172. Outstanding amounts resulting from overpayments; filing of certificate; entry of judgment.
- 14172.5. Statement of account status or demand for repayment; liquidation of overpayments to institutional providers; adjustment of payments to insure no overpayments.
- 14173. Abstract of judgment, recording; liens; executions; sales.
- 14174. Collection procedures; summary judgment.
- 14175. Liens; release.
- 14176. Overpayments; recovery; repayment agreements.
- 14177. Overpayments; recovery; offset against amounts due.
- 14178. Counties held harmless for acts performed before July 1, 1982; audit exception; applicability.

Article 5.3 was added by Stats.1977, c. 1046, p. 3172, § 6.

Operative effect

Chapter to remain operative during times federal aid available, see § 14020.

Code of Regulations References

Health care services, provider audit appeals, see 22 Cal. Code of Regs. 51016 et seq.

§ 14170. Audits; controls; cost reports; corrections; payroll records; maintenance

Amounts paid for services provided to Medi-Cal beneficiaries shall be audited by the department in the manner and form prescribed by the department. The department shall maintain adequate controls to ensure responsibility and accountability for the expenditure of federal and state funds. Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing

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rates of payment shall be considered true and correct unless audited or reviewed by the department within 18 months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later. Moreover the cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.

Nothing in this section shall be construed to limit the correction of cost reports or rates of payment when inaccuracies are determined to be the result of intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the provider or inability to reach agreement on the terms of final settlement.

Notwithstanding any other provision of law, nursing facilities and all categories of intermediate care facilities for the developmentally disabled which have received and are receiving funds for salary increases pursuant to Sections 14110.6 and 14110.7 shall maintain payroll and personnel records for examination by auditors from the department and the Labor Commissioner beginning March 1985 until the records have been audited, or until December 31, 1992, whichever occurs first.

(Added by Stats.1977, c. 1046, p. 3172, § 6. Amended by Stats.1978, c. 429, § 248.1, eff. July 17, 1978, operative July 1, 1978; Stats.1981, c. 1129, p. 4408, § 1; Stats.1985, c. 787, § 1, eff. Sept. 19, 1985; Stats.1989, c. 731, § 23; Stats.1990, c. 1329 (S.B.1524), § 32, eff. Sept. 26, 1990.)

Historical and Statutory Notes

Section 2 of Stats.1978, c. 19, p. 80, amended by Stats.1981, c. 1129, p. 4410, § 2, and § 2.5 of Stats.1978, c. 19, added by Stats.1981, c. 1129, p. 4412, § 3, and amended by Stats.1985, c. 787, § 2, provide:

"Sec. 2. (a) The Legislature hereby finds and declares that a high rate of turnover among staff in intermediate care facilities and skilled nursing facilities diminishes the quality of care rendered to patients in those facilities. The Legislature further finds that the turnover among employees of those facilities is substantially attributable to the fact that the wages paid those employees are generally lower than the wages paid employees of other health care institutions in similar job classifications. It is the intent of the Legislature that Medi-Cal reimbursement rates for skilled nursing facilities and intermediate care facilities, to the extent feasible, be set at levels sufficient to allow those employees to be paid at wages which are sufficient to reduce turnover among such employees, in order to improve the level and quality of patient care.

(b) The Legislature further finds that the rates for wages contained in this act were

developed with recognition of the costs of increased wages and related benefits. It is the intent of the Legislature that the funds resulting from the Medi-Cal rate increases provided in this section be used for wage increases and for costs of normal benefit increases related to the wage and salary increases.

"(c) Notwithstanding any other provision of law, the State Director of Health Services shall establish and implement regulations effective March 1, 1978, that establish a payment rate for intermediate care facilities and skilled nursing facilities as defined in Section 1250 of the Health and Safety Code, which is sufficient to provide an increase of two dollars and twenty-eight cents (\$2.28) per patient-day with respect to skilled nursing facilities and one dollar and eighty-four cents (\$1.84) per patient-day with respect to intermediate care facilities, for wages and benefits of nonadministrative employees. The increase required by this section shall be in addition to any future mandatory increases required by federal or state law. The rate shall provide funding for the portion of additional costs necessary to implement the wage and benefit increase required by this

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section attributable to Medi-Cal patients. The portion of those additional costs shall be the same as the ratio of Medi-Cal patients to the total patients in the facility.

"(d) Each skilled nursing facility or intermediate care facility shall certify that funds received pursuant to this section for the period commencing March 1, 1978, to and including June 30, 1978, are expended for employee wages and benefits, except if the entry level wages of the lowest paid nonadministrative employee of a skilled nursing facility or an intermediate care facility exceeds three dollars and ninety-seven cents (\$3.97) per hour on the effective date of this section, the funds received pursuant to regulations adopted pursuant to this section shall be used to ensure the continued delivery of quality care in that facility. The base, from which employee wages and benefits are increased pursuant to this section, shall be the facility payroll for the month of December, 1977, but including only nonovertime hours worked by covered employees, plus any amount received pursuant to Section 1439.7 of the Health and Safety Code. For purposes of determining the amount of Medi-Cal funds to be distributed for employee wages and benefits, the total Medi-Cal patient-days recorded by the facility in the month of December, 1977, shall be multiplied by the amount per patient-day specified in subdivision (c) of this section.

"(e) The director shall inspect relevant payroll and personnel records of skilled nursing facilities and intermediate care facilities which are reimbursed for Medi-Cal patients under the rate of reimbursement established pursuant to subdivision (c) of this section to insure that the wage and benefit increases provided for have been implemented.

"(f) Any facility which is paid under the rate provided for in which the director finds has not made the wage and benefit increases provided for shall be liable to the employees for the amount of funds paid to the facility based upon the wage and benefit requirements provided for by this section but not distributed to employees for wages and benefits. The facility shall make payment of the outstanding amounts to the state for appropriate distribution, plus an amount equal to 10 percent of the funds not so distributed, to be retained by the state as a penalty.

"(g) On or before July 1, 1978, and annually hereafter, each skilled nursing facility or intermediate care facility shall certify to, and in the manner prescribed by, the director, all of the following:

"(1) All nonadministrative employees of the facility employed less than three months receive at least an entry level wage amounting to

the prevailing federal minimum wage rate plus 50 percent of the average hourly wage increase established pursuant to this section for that facility during the period March through June, 1978.

"(2) All nonadministrative employees of the facility employed three months or more receive at least the prevailing federal minimum wage rate plus the average hourly wage increase established pursuant to this section for that facility during the period March through June, 1978; provided, however, that no employee then employed shall receive a wage less than that which that person received pursuant to this section for the period March through June, 1978, after July 1, 1978.

"(3) Any wage increase required pursuant to subdivision (a) of Section 1338 of the Health and Safety Code is in addition to any minimum wages provided in this subdivision.

"Sec. 2.5. (a) The Labor Commissioner is hereby authorized to audit payroll and personnel records of skilled nursing facilities and intermediate care facilities for the purposes of ensuring compliance with the wage levels provided for in this chapter.

"(b) The Labor Commissioner is hereby authorized to recover from the skilled nursing facility or the intermediate care facility any wages less than the minimum provided for in this chapter. The recovered funds shall be provided to the employees who were underpaid.

"(c) The Labor Commissioner may recover any funds not used for increases in wages pursuant to Sections 14110.6 and 14110.7 of the Welfare and Institutions Code. The recovered funds shall be provided to the employees who were underpaid. All penalties collected pursuant to these sections shall be forwarded to the Controller for deposit in the General Fund.

"(d) The Labor Commissioner is hereby authorized to impose any other penalties within his or her powers against any skilled nursing facility or intermediate care facility that is in violation of the wage requirements of this chapter. The amount of any penalties already paid to the State Department of Health Services pursuant to this chapter shall be deducted from the amount of any unpaid penalties imposed by the Labor Commissioner pursuant to this chapter. The amount of any penalties already paid to the Labor Commissioner pursuant to this chapter shall be deducted from the amount of any unpaid penalties imposed by the State Department of Health Services pursuant to this chapter.

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Any evidence of failure to pay wage as provided for by this chapter shall be provided to the Labor Commissioner."

Amendment of this section by § 1.5 of Stats. 1981, c. 1129, p. 4409, failed to become operative under the provisions of § 4 of that Act.

Attachment 4.19-D
Appendix 3
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Code of Regulations References

Requirements for electronic claims submission, see 22 Cal. Code of Regs. 51502.1.

Library References

Social Security and Public Welfare § 241.65.
WESTLAW Topic No. 356A.

C.J.S. Social Security and Public Welfare
§§ 137, 138.

Notes of Decisions

Limitation of actions 1

1. Limitation of actions

Even if Medi-Cal services provider was entitled to avoid exhaustion of administrative rem-

edies and proceeded directly to trial court on its appeal of 1972 audit adjustment, it did not do so within the applicable statute of limitations and its claim was barred for that reason. Pacific Coast Medical Enterprises v. Department of Benefit Payments (1983) 189 Cal.Rptr. 558, 140 C.A.3d 197.

§ 14170.1. Underpayments for pharmaceutical services; credit against overpayments

(a) Prior to the issuance to a provider of pharmaceutical services of any demand for payment pursuant to an audit or examination conducted under Sections 10722 and 14170, the amount of any underpayment to the provider for validly submitted claims or for valid claims which have inadvertently not been submitted and which arose during the audit period shall be determined and credited toward the amount of any overpayment due to the department. This section shall apply to all audits and examinations conducted under sections 10722 and 14170 relative to amounts paid during the audit period for services provided to Medi-Cal beneficiaries. No audit may be reopened to provide for underpayments in which a final decision has been reached pursuant to Section 14171 or in which a certificate has been filed pursuant to Section 14172.

(b) When a provider of pharmaceutical services asserts that a claim has been underpaid for purposes of receiving a credit against overpayments, as authorized by this section, the provider shall submit to the department information and documentation sufficient to resolve any dispute as to whether such claim was in fact underpaid.

(c) For purposes of this section, the term "underpayments" shall include errors made by the pharmacist and errors made by the fiscal intermediary in determining payments for claims submitted within the billing time limits specified in Section 14115.

Added by Stats.1983, c. 1146, § 1. Amended by Stats.1986, c. 562, § 1.)

Library References

Social Security and Public Welfare § 241.110.
WESTLAW Topic No. 356A.

C.J.S. Social Security and Public Welfare
§ 136.

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