

ASSEMBLY, No. 1571

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

Assemblyman Schaer, Assemblywomen Sumter, Pinkin and Assemblyman Holley

SYNOPSIS

Requires audits of managed care plan provider networks.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning certain health insurance carriers, supplementing
 2 Titles 26 and 30 of the Revised Statutes and amending
 3 R.S.52:24-4.

4
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*

7
 8 1. (New section) a. A carrier which offers a managed care
 9 plan shall provide for an annual audit of its provider network by a
 10 private auditing firm approved by the Commissioner of Banking
 11 and Insurance. The audit shall be at the expense of the carrier, and
 12 the carrier shall submit the audit findings to the commissioner.

13 b. If the audit contains a determination that a carrier has failed
 14 to maintain an adequate network of providers in accordance with
 15 applicable federal or State law, including specialists as enumerated
 16 in N.J.A.C.11:24-6.2, the commissioner shall impose a civil penalty
 17 of not less than \$500 nor more than \$10,000 upon the carrier for
 18 each instance in which the audit determines that the carrier failed to
 19 maintain an adequate network. The civil penalty shall be collected
 20 by the commissioner pursuant to the "Penalty Enforcement Law of
 21 1999," P.L.1999 c.274 (C.2A:58-10 et seq.).

22
 23 2. R.S.52:24-4 is amended to read as follows:

24 52:24-4. It shall be the duty of the State Auditor to conduct post-
 25 audits of all transactions and accounts kept by or for all
 26 departments, offices and agencies of the State Government, to
 27 report to the Legislature or to any committee thereof and to the
 28 Governor, and to the Executive Director of the Office of Legislative
 29 Services, as provided by this chapter and as shall be required by
 30 law, and to perform such other similar or related duties as shall,
 31 from time to time, be required of him by law.

32 The State Auditor shall personally or by any of his duly
 33 authorized assistants, or by contract with independent public
 34 accountant firms, examine and post-audit all the accounts, reports
 35 and statements and make independent verifications of all assets,
 36 liabilities, revenues and expenditures of the State, its departments,
 37 institutions, boards, commissions, officers, and any and all other
 38 State agencies, now in existence or hereafter created, hereinafter in
 39 this chapter called "accounting agencies."

40 The State Auditor shall conduct, at the direction of the
 41 Legislative Services Commission or of the presiding officer of
 42 either house of the Legislature or on the State Auditor's own
 43 initiative, a performance review audit of any program of any
 44 accounting agency, any independent authority, or any public entity
 45 or grantee that receives State funds, in a manner that is consistent

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

 Matter underlined thus is new matter.

1 with the Government Auditing Standards for performance audits
2 utilized by the United States Government Accountability Office or
3 its successor.

4 The State Auditor shall annually conduct a performance review
5 audit of every health maintenance organization that contracts with
6 the Department of Human Services to provide health care services
7 for recipients of the Medicaid program pursuant to P.L.1968,
8 c.413 (C.30:4D-1 et seq.) in order to determine whether the health
9 maintenance organizations individually and as a group have
10 established and maintained adequate provider networks, including
11 specialists as enumerated in N.J.A.C.11:24-6.2, which are accepting
12 recipients of the Medicaid program as patients in accordance with
13 the provisions of their contracts. The performance review audit
14 shall be at the expense of the health maintenance organization.

15 When the State Auditor conducts any audit or performance
16 review audit, the accounting agency, or authority, entity **[or]**,
17 grantee, or health maintenance organization, shall respond in
18 writing to each item in the State Auditor's report and the State
19 Auditor, at an appropriate time determined by him, shall conduct a
20 post-audit review of the accounting agency's, or authority's, entity's,
21 **[or]** grantee's, or health maintenance organization's compliance
22 with the State Auditor's recommendations.

23 The officers and employees of each accounting agency, or
24 authority, entity, **[or]** grantee, or health maintenance organization,
25 shall assist the State Auditor, when and as required by him, and
26 provide the State Auditor with prompt access to all records
27 necessary for the State Auditor to perform his duties,
28 notwithstanding any statutory or regulatory requirements of
29 confidentiality with regard to the records, for the purpose of
30 carrying out the provisions of this chapter. The State Auditor shall
31 report the failure of any accounting agency, or authority, entity,
32 **[or]** grantee, or health maintenance organization, to provide prompt
33 access to any relevant record to the presiding officer of each house
34 of the Legislature. The State Auditor shall not disclose a
35 confidential record provided by an accounting agency, or authority,
36 entity, **[or]** grantee, or health maintenance organization, except as
37 may be necessary for the State Auditor to fulfill his constitutional or
38 statutory responsibilities. Working papers prepared by the State
39 Auditor shall be confidential and shall not be considered
40 government records under P.L.1963, c.73 (C.47:1A-1 et seq.).

41 Notwithstanding any law to the contrary, post-audits and
42 performance review audits shall be conducted within the limits of
43 the resources and personnel available to the State Auditor. If
44 resources and personnel are insufficient to conduct all such required
45 post-audits and performance review audits, the State Auditor may
46 prioritize certain audits and forgo others upon notice to the

1 Governor and the presiding officer of each house of the Legislature.
2 (cf: P.L.2006, c.82, s.1)

3
4 3. (New section) For each instance in which the State Auditor
5 determines, pursuant to R.S.52:24-4, that a health maintenance
6 organization has not established or maintained a provider network
7 that accepts recipients of the Medicaid program as patients in
8 accordance with the provisions of its contract with the Department
9 of Human Services to provide health care services for recipients of
10 the Medicaid program pursuant to P.L.1968, c.413 (C.30:4D-1 et
11 seq.), the Commissioner of Human Services shall impose a civil
12 penalty of not less than \$500 nor more than \$10,000. The
13 commissioner shall collect the penalty pursuant to the "Penalty
14 Enforcement Law of 1999," P.L.1999, c.274 (2A:58-10 et seq.).

15
16 4. This act shall take effect on the first day of the third month
17 next following the date of enactment.

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20 STATEMENT

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22 This bill supplements the consumer safeguards with respect to
23 health benefits plans provided by health insurance carriers that were
24 established pursuant to the "Health Care Quality Act," P.L.1997,
25 c.92 (C.26:2S-1 et seq.).

26 The bill provides that a carrier that offers a managed care plan
27 must provide for an annual audit of its provider network, at its own
28 expense, by a private auditing firm approved by the Commissioner
29 of Banking and Insurance. If the audit finds that a carrier failed to
30 maintain an adequate network in accordance with State and federal
31 law, including specialists as enumerated in N.J.A.C.11:24-6.2, the
32 Commissioner of Banking and Insurance will be required to assess a
33 civil penalty of not less than \$500 and not more than \$10,000 for
34 each instance in which the carrier fails to maintain an adequate
35 network.

36 The bill additionally provides that the State Auditor is to perform
37 an annual performance review audit of every health maintenance
38 organization (HMO) that contracts with the Department of Human
39 Services to provide health care services for Medicaid recipients, in
40 order to determine whether HMOs individually and as a group have
41 established and maintained adequate provider networks, including
42 specialists as enumerated in N.J.A.C.11:24-6.2, which are accepting
43 recipients of the Medicaid program as patients in accordance with
44 the provisions of their contracts. The performance review will be
45 conducted at the expense of the HMO. The Commissioner of
46 Human Services will be required to assess a civil penalty of not less
47 than \$500 and not more than \$10,000 against an HMO for each

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- 1 instance in which the HMO has not established and maintained an
- 2 adequate provider network in accordance with its contract.