

## **Part 6**

### **Medical Assistance Accountability**

#### **26-18-601 Title.**

This part is known as "Medical Assistance Accountability."

Enacted by Chapter 362, 2011 General Session

#### **26-18-602 Definitions.**

As used in this part:

- (1) "Abuse" means:
  - (a) an action or practice that:
    - (i) is inconsistent with sound fiscal, business, or medical practices; and
    - (ii) results, or may result, in unnecessary Medicaid related costs or other medical or hospital assistance costs; or
  - (b) reckless or negligent upcoding.
- (2) "Auditor's Office" means the Office of Internal Audit, within the department.
- (3) "Fraud" means intentional or knowing:
  - (a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, claims, reimbursement, or practice; or
  - (b) deception or misrepresentation in relation to medical or hospital assistance funds, costs, claims, reimbursement, or practice.
- (4) "Medical or hospital assistance" is as defined in Section 26-18-2.
- (5) "Upcoding" means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking into account reasonable opinions derived from official published coding definitions, would result in a lower Medicaid payment or reimbursement.
- (6) "Waste" means overutilization of resources or inappropriate payment.

Amended by Chapter 135, 2015 General Session

#### **26-18-603 Adjudicative proceedings related to Medicaid funds.**

- (1) If a proceeding of the department, under Title 63G, Chapter 4, Administrative Procedures Act, relates in any way to recovery of Medicaid funds:
  - (a) the presiding officer shall be designated by the executive director of the department and report directly to the executive director or, in the discretion of the executive director, report directly to the director of the Office of Internal Audit; and
  - (b) the decision of the presiding officer is the recommended decision to the executive director of the department or a designee of the executive director who is not in the division.
- (2) Subsection (1) does not apply to hearings conducted by the Department of Workforce Services relating to medical assistance eligibility determinations.
- (3) If a proceeding of the department, under Title 63G, Chapter 4, Administrative Procedures Act, relates in any way to Medicaid or Medicaid funds, the following may attend and present evidence or testimony at the proceeding:
  - (a) the director of the Office of Internal Audit, or the director's designee; and
  - (b) the inspector general of Medicaid services or the inspector general's designee.

- (4) In relation to a proceeding of the department under Title 63G, Chapter 4, Administrative Procedures Act, a person may not, outside of the actual proceeding, attempt to influence the decision of the presiding officer.

Amended by Chapter 135, 2015 General Session

**26-18-604 Division duties -- Reporting.**

- (1) The division shall:
- (a) develop and implement procedures relating to Medicaid funds and medical or hospital assistance funds to ensure that providers do not receive:
    - (i) duplicate payments for the same goods or services;
    - (ii) payment for goods or services by resubmitting a claim for which:
      - (A) payment has been disallowed on the grounds that payment would be a violation of federal or state law, administrative rule, or the state plan; and
      - (B) the decision to disallow the payment has become final;
    - (iii) payment for goods or services provided after a recipient's death, including payment for pharmaceuticals or long-term care; or
    - (iv) payment for transporting an unborn infant;
  - (b) consult with the Centers for Medicaid and Medicare Services, other states, and the Office of Inspector General of Medicaid Services to determine and implement best practices for discovering and eliminating fraud, waste, and abuse of Medicaid funds and medical or hospital assistance funds;
  - (c) actively seek repayment from providers for improperly used or paid:
    - (i) Medicaid funds; and
    - (ii) medical or hospital assistance funds;
  - (d) coordinate, track, and keep records of all division efforts to obtain repayment of the funds described in Subsection (1)(c), and the results of those efforts;
  - (e) keep Medicaid pharmaceutical costs as low as possible by actively seeking to obtain pharmaceuticals at the lowest price possible, including, on a quarterly basis for the pharmaceuticals that represent the highest 45% of state Medicaid expenditures for pharmaceuticals and on an annual basis for the remaining pharmaceuticals:
    - (i) tracking changes in the price of pharmaceuticals;
    - (ii) checking the availability and price of generic drugs;
    - (iii) reviewing and updating the state's maximum allowable cost list; and
    - (iv) comparing pharmaceutical costs of the state Medicaid program to available pharmacy price lists; and
  - (f) provide training, on an annual basis, to the employees of the division who make decisions on billing codes, or who are in the best position to observe and identify upcoding, in order to avoid and detect upcoding.
- (2) Each year, the division shall report the following to the Social Services Appropriations Subcommittee:
- (a) incidents of improperly used or paid Medicaid funds and medical or hospital assistance funds;
  - (b) division efforts to obtain repayment from providers of the funds described in Subsection (2)(a);
  - (c) all repayments made of funds described in Subsection (2)(a), including the total amount recovered; and

- (d) the division's compliance with the recommendations made in the December 2010 Performance Audit of Utah Medicaid Provider Cost Control published by the Office of Legislative Auditor General.

Amended by Chapter 135, 2015 General Session

**26-18-605 Utah Office of Internal Audit.**

The Utah Office of Internal Audit:

- (1) may not be placed within the division;
- (2) shall be placed directly under, and report directly to, the executive director of the Department of Health; and
- (3) shall have full access to all records of the division.

Amended by Chapter 135, 2015 General Session