



Summary of Legislation Enacted in 2020

This summary briefly discusses Social Services and Public Health Law changes that were part of the 2020-2021 New York State budget.

Amended Social Services and Public Health Law provisions

Managed Care Fraud and Abuse Prevention

Social Services Law (SOS) §364-j was amended to add new subdivision 39 to require a managed care provider to adopt and implement a compliance program as required under SOS §363-d and to meet the standards and requirements for the operation of managed care fraud, waste and abuse prevention activities, including requirements for special investigation units.

[SOS §364-j(39), in Part QQ of Chapter 56 of the Laws of 2020]

Provider Compliance Programs

Social Services Law (SOS) §363-d was amended to make changes to the mandatory compliance program requirements and permit the imposition of a monetary penalty for failing to adopt and implement an effective compliance program.

All providers who are subject to the mandatory compliance program requirements in SOS §363-d will be impacted by these changes and should take the steps necessary to review the changes and comply. It is the Provider's responsibility to ascertain whether or not they are required to implement and operate an effective compliance program under the statute (see SOS 363-d(4)).

[SOS §363-d, in Part QQ of Chapter 56 of the Laws of 2020]

Monetary Penalties

Social Services Law (SOS) § 145-b(4) was amended to authorize the imposition of monetary penalties in cases where a person fails to grant timely access to records and facilities; fails to report, return and explain overpayments within sixty (60) days of identification; and arranges

or contracts, by employment or otherwise, with an individual or entity that has been excluded or suspended from participation in the Medicaid program.

[SOS §145-b(4), in Part QQ of Chapter 56 of the Laws of 2020]

MMCOR Penalties

Social Services Law § 364-j was amended to add new subdivision 38 to authorize the imposition of a monetary penalty in cases where a managed care provider, which includes a managed long-term care plan submits a cost report to DOH that contains a misstatement of fact.

[SOS §364-j(38), in Part QQ of Chapter 56 of the Laws of 2020]

TPHI Prior Authorization and Prompt Pay

Social Service Law § 367-a and Insurance Law §3213 were amended to prevent commercial carriers from denying a claim for failing to obtain prior authorization and to require commercial carriers to promptly pay third party liability (TPL) claims within specific time frames.

[SOS §367-a and ISC §3213, in Part QQ of Chapter 56 of the Laws of 2020]

Report, Return Explain: Self Disclosures

OMIG has an existing policy-based process for receiving and processing the self-disclosures of overpayments and other conduct from providers under the Medicaid program. This process is authorized under OMIG's enabling statute; however, the specific requirements of the program were set forth in policy.

The amendments to SOS § 363-d codify in New York State law the federal requirement that a provider's obligation to report, return, and explain overpayments to the State within sixty (60) days of identification and establish in New York State law the parameters for the Self-Disclosure Program and the requirements for participation.

[SOS §363-d, in Part QQ of Chapter 56 of the Laws of 2020]

Home Health Unique Identifier

Amendments to the Public Health and Social Services Law require aides (including home health, personal care, and CDPAP) to obtain a unique identifier and to require that unique identifier to be included on claims and encounters submitted to the State Medicaid program.

[PHL §3613 and SOS §, in Part QQ of Chapter 56 of the Laws of 2020]

Encounter data penalty

Social Services Law § 364-j amended existing subdivision 32 to authorize the imposition of a monetary penalty by the Medicaid inspector general, in consultation with the commissioner, for incomplete or inaccurate encounter data. If during the course of an audit, investigation or review the Medicaid inspector general identifies incomplete or inaccurate encounter data the Medicaid capitated premiums shall be reduced by one percent.

[SOS §364-j, in Part KKK of Chapter 56 of the Laws of 2020]

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