

1 HOUSE BILL NO. 171

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9 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PREPAYMENT AND POSTPAYMENT REVIEWS AND
10 ANALYSES OF PROVIDER INFORMATION AND CLAIMS INVOLVING THE MEDICAID PROGRAM AND
11 HEALTHY MONTANA KIDS PLAN IN ORDER TO PREVENT AND REDUCE FRAUD, WASTE, AND ABUSE;
12 REQUIRING THE USE OF PREDICTIVE MODELING AND ANALYTICS TO IDENTIFY POTENTIAL FRAUD
13 AND ABUSE; AND REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO
14 CONTRACT FOR SERVICES."

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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18 NEW SECTION. **Section 1. Legislative findings and purpose.** (1) The legislature finds that the
19 occurrence of fraud, waste, and abuse in the medicaid program and the healthy Montana kids plan increases the
20 costs of the programs to both the state and federal governments. The legislature further finds that technologies
21 exist to assist the state in:

- 22 (a) detecting fraud, waste, and abuse;
23 (b) preventing payment of fraudulent claims; and
24 (c) recovering funds lost to fraud, waste, or abuse.

25 (2) It is the purpose of the legislature to:

- 26 (a) use available technologies to review both submitted and adjudicated medicaid and healthy Montana
27 kids plan claims to reduce payments for fraudulent claims; and
28 (b) contract with an entity that has expertise in carrying out prepayment, prevention, and recovery
29 solutions using a payment method in which the contracted services are paid for through the savings generated
30 by use of the solutions.

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2 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 5 6], unless the context clearly
3 requires otherwise, the following definitions apply:

4 (1) "Abuse" means conduct by an enrollee, provider, or other person involving disregard of and an
5 unreasonable failure to conform with the statutes, regulations, and rules governing the medicaid program or
6 healthy Montana kids plan when the disregard or failure results or may result in an incorrect determination that
7 a person is eligible for the medicaid program or healthy Montana kids plan or that a provider is entitled to a
8 payment.

9 (2) "Claim" means a communication, whether in oral, written, electronic, magnetic, or other form, that
10 is used to claim specific services or items as payable or reimbursable under the medicaid program or the healthy
11 Montana kids plan or that states income, expense, or other information that is or may be used to determine
12 entitlement to or the rate of payment under the medicaid program or the healthy Montana kids plan. The term
13 includes any documents submitted as part of or in support of the claim.

14 (3) "Department" means the department of public health and human services provided for in 2-15-2201.

15 (4) "Enrollee" means an individual eligible to receive benefits and enrolled in the medicaid program or
16 the healthy Montana kids plan.

17 (5) "Fraud" means any conduct or activity prohibited by statute, regulation, or rule involving purposeful
18 or knowing conduct or omission to perform a duty that results in or may result in medicaid or healthy Montana
19 kids plan payments or benefits to which the enrollee or provider is not entitled. Fraud includes but is not limited
20 to any conduct or omission under the medicaid program or the healthy Montana kids plan that would constitute
21 a criminal offense under Title 45, chapter 6 or 7.

22 (6) "Healthy Montana kids plan" means the insurance program established under Title 53, chapter 4, part
23 11.

24 (7) "Medicaid" means the Montana medical assistance program established under Title 53, chapter 6.

25 (8) "Provider" means an individual, company, partnership, corporation, institution, facility, or other entity
26 or business association that has enrolled or applied to enroll as a provider of services or items under the medicaid
27 program or the healthy Montana kids plan.

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29 **NEW SECTION. Section 3. Provider screening and data verification -- database.** (1) The
30 department shall implement a program to review and verify information and claims submitted by providers against

1 a database of provider information in order to automate reviews and identify and prevent inappropriate payments
2 to a:

3 (a) deceased provider;

4 (b) provider who has been sanctioned by a professional licensing board, the medicaid program, or the
5 healthy Montana kids plan;

6 (c) provider whose professional license has expired;

7 (d) retired provider; or

8 (e) provider whose address has been confirmed as being incorrect.

9 (2) The department shall establish procedures to allow for continual updating of the database provided
10 for in this section in order to provide accurate information for reviewing and verifying provider and claims data.

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12 **NEW SECTION. Section 4. Use of predictive modeling and analytics.** (1) The department shall
13 implement predictive modeling and analytics technologies for the medicaid program and the healthy Montana kids
14 plan in order to:

15 (a) identify and analyze billing or utilization patterns that represent a high risk of fraudulent activity;

16 (b) prioritize for additional review, before payment is made, the transactions identified as representing
17 a high risk of fraudulent activity;

18 (c) obtain information from adjudicated claims to refine and improve the predictive analytics technologies
19 based on historical data and on algorithms used in the predictive modeling system and in the department's
20 system for payment of claims; and

21 (d) prevent the payment of claims that have been identified as potentially fraudulent, wasteful, or abusive
22 until the claims have been verified as valid.

23 (2) The predictive modeling and analytics technology must be integrated into the existing systems for
24 processing and paying claims submitted to the medicaid program and the healthy Montana kids plan.

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26 **NEW SECTION. Section 5. Contract for services -- payment options -- verification.** (1) The
27 department shall contract for the review required under [sections 1 through 5 6].

28 (2) To ensure to the extent possible that the cost of providing the services is paid for by the savings
29 generated by prepayment and postpayment review, a contract issued pursuant to this section may allow for
30 payment to the vendor based on models that include but are not limited to:

1 (a) a percentage of the savings achieved through use of the contracted services, NOT TO EXCEED 30%
2 OF STATE FUNDS SAVED;

3 (b) a per-enrollee, per-month model;

4 (c) a per-transaction model; or

5 (d) a case-rate model.

6 (3) If payment is to be a percentage of the savings achieved through the use of the contracted services,
7 the department shall establish in the request for proposal and the contract the method that the department will
8 use for verifying the savings achieved through the reviews conducted pursuant to [sections 1 through 5 6].

9 (4) A contract issued pursuant to this section may include performance guarantees of the vendor in order
10 to ensure that the savings identified by the contracted services exceed the costs of providing the services.

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12 NEW SECTION. SECTION 6. RECOVERED FUNDS. (1) ANY STATE FUNDS THAT ARE RECOVERED AS A RESULT
13 OF A REVIEW CONDUCTED UNDER [SECTIONS 1 THROUGH 6] MUST BE DEPOSITED IN AN ACCOUNT TO THE CREDIT OF THE
14 DEPARTMENT.

15 (2) ANY FEDERAL FUNDS RECOVERED AS A RESULT OF A REVIEW CONDUCTED UNDER [SECTIONS 1 THROUGH 6]
16 MUST BE RETURNED TO THE FEDERAL SPECIAL REVENUE ACCOUNT FROM WHICH IT ORIGINATED.

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18 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 5 6] are intended to be
19 codified as an integral part of Title 53, chapter 2, and the provisions of Title 53, chapter 2, apply to [sections 1
20 through 5 6].

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