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**HOUSE BILL 1712**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Harris, Riccelli, Rodne, Van De Wege, and Caldier

AN ACT Relating to audits and investigations; adding a new section to chapter 74.09 RCW; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) No later than January 1, 2016, the director shall establish and publish on the authority's internet web site audit protocols to assist medicaid providers in developing programs to improve compliance with medicaid requirements under state and federal laws. Audit protocols provided by the authority may not be relied upon to create a substantive or procedural right or benefit enforceable at law or in equity by any person, including a corporation. The director shall establish audit protocols for specific providers or categories of service including, but not limited to: (a) Licensed home health agencies, (b) drug and alcohol treatment centers, (c) durable medical equipment, (d) hospital outpatient services, (e) physician and nursing services, (f) dental services, (g) behavioral health services, (h) pharmaceutical services, and (i) emergency and nonemergency medical transportation services. The director shall ensure that the authority, or any entity with which the authority contracts to conduct an audit pursuant to RCW 74.09.200, has on staff a medical or dental professional who is equally educated, licensed in Washington state, and experienced in the treatment, billing, and coding procedures used by the provider being audited.

(2) The authority or any entity with which the authority contracts, for the purpose of conducting an audit of a service provider, shall send written notice of a scheduled on-site audit thirty calendar days in advance for all providers.

(3) A finding of overpayment or underpayment to a provider in a program operated or administered by the authority pursuant to RCW 74.09.200 may not be based on extrapolation unless (a) there is a determination of sustained or high level of payment error involving the provider, (b) documented educational intervention has failed to correct the level of payment error, or (c) the value of the claims in aggregate exceeds two hundred thousand dollars on an annual basis.

(4) Any finding which is based upon extrapolation, and the related sampling, must be established to be statistically fair and reasonable in order to be valid.

(5) Any clerical error including, but not limited to, recordkeeping, typographical, scriveners, or computer error, discovered in a record or document produced for any such audit, does not itself constitute a willful violation of the rules of a medical assistance program administered by the authority unless proof of intent to commit fraud or otherwise violate program rules is established.

(6) After the authority or any entity with which the authority contracts, for the purpose of conducting an audit of a service provider, completes its review of the provider's records, the department shall issue a preliminary draft report within forty-five days.

(7) The authority or any entity with which the authority contracts, for the purpose of conducting an audit of a service provider, shall hold an exit conference on the last day of an on-site audit unless outstanding circumstances require the scheduling of the exit conference to be delayed. Such delay may be no longer than ninety days.

(8) The authority or any entity with which the authority contracts, for the purpose of conducting an audit of a service provider, shall produce a final written report concerning any audit conducted pursuant to RCW 74.09.200, no later than sixty days after the conclusion of such an audit or after the date of the exit conference, unless the authority, or any entity with which the authority contracts, for the purpose of conducting an audit of a service provider, agrees to a later date or there are other referrals or investigations pending concerning the provider.

(9) Any entity with which the authority contracts, for the purpose of conducting an audit of a service provider, shall be paid on a flat fee basis for identifying both overpayments and underpayments for all audits pursuant to RCW 74.09.200.

NEW SECTION. **Sec.**  This act takes effect January 1, 2016.

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