



Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 22-0758	Date:	March 23, 2022
Prime Sponsors:	Sen. Kolker; Fenberg Rep. Amabile; Young	Bill Status:	Senate HHS
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Bill Topic: **MEDICAID PRIOR AUTHORIZATION & RECOVERY OF PAYMENT**

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill prohibits prepaid inpatient health plans from requiring prior authorizations for certain services and from certain payment recoveries. The bill may increase state expenditures beginning in FY 2022-23.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill prohibits a prepaid inpatient health plan from:

- requiring prior authorization for outpatient psychotherapy services;
- retroactively recovering provider payments if a recipient was initially determined to be eligible for Medicaid benefits and the provider has an eligibility guarantee number for the recipient;
- retroactively recovering provider payments after 12 months from the date a claim was paid, except in certain circumstances; and
- retroactively recovering provider payments after 10 years from the date a claim was paid.

If a prepaid inpatient health plan retroactively recovers a provider payment that is equal to or greater than \$1,000, the bill requires the health plan to work with the provider to develop a payment plan if requested by the provider.

Background

The state Medicaid program contracts with seven regional accountable entities (RAEs) to provide or arrange for behavioral health services for members in each region. Medicaid pays the RAEs a per member per month payment (a capitated payment) to provide these services. Under state and federal Medicaid rules, these capitated payments are classified as a “prepaid inpatient health plan.”

State Expenditures

HCPF may have an increase in costs under the bill resulting from the removal of the prior authorization requirement for outpatient psychotherapy services, which may lead to increased utilization. The restrictions on recoveries may lead to an increase in improper payments that cannot later be recovered. It is assumed that any increase in capitation rates that result from these changes will be addressed through the annual budget process, if necessary.

Effective Date

The bill takes effect January 1, 2023, assuming no referendum petition is filed.

State and Local Government Contacts

Health Care Policy and Financing

Information Technology

Law