
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1418

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Kirby, Roach, Simpson, Santos, Campbell, Orcutt, Williams and Serben)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to regulating insurance overpayment recovery
2 practices; adding a new section to chapter 48.43 RCW; and providing an
3 effective date.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW
6 to read as follows:

7 (1) A carrier may not retroactively deny, adjust, or seek
8 recoupment or refund of an adjudicated claim submitted by a health care
9 provider for any reason, other than fraud or coordination of benefits
10 or as set forth in subsection (5) of this section, after the expiration
11 of two years from the date the initial claim was paid. If a carrier
12 retroactively denies, adjusts, or seeks recoupment or refund of an
13 adjudicated claim, the health care provider has an additional period of
14 six months from the date the notice required by subsection (6) of this
15 section was received within which to file either a revised claim or a
16 request for reconsideration supported by additional medical records or
17 information. If both the carrier and provider agree, adjudicated
18 claims may be adjusted after the expiration of two years from the date
19 the claim was paid.

1 (2) A health care provider may not retroactively seek adjustment of
2 an adjudicated claim by a carrier for any reason, other than fraud or
3 coordination of benefits, after the expiration of two years from the
4 date the initial claim was paid. If a provider retroactively seeks an
5 adjustment of an adjudicated claim, the carrier has an additional
6 period of six months from the date the notice required by subsection
7 (6) of this section was received within which to file a response. If
8 both the carrier and provider agree, adjudicated claims may be adjusted
9 after the expiration of two years from the date the claim was paid.

10 (3) A carrier may not retroactively deny, adjust, or seek
11 recoupment or refund of an adjudicated claim submitted by a health care
12 provider for reasons related to coordination of benefits with another
13 carrier or other entity responsible for payment of the claim after the
14 expiration of thirty months from the date the original claim was paid
15 by the primary or secondary payer, regardless who is seeking the
16 adjustment or recoupment. A carrier may not unreasonably delay initial
17 payment of a claim to a health care provider because of carrier efforts
18 to coordinate benefits nor may a carrier require the provider to assume
19 responsibility for coordination of benefits except to provide the
20 carrier information. If the carrier retroactively denies, adjusts, or
21 seeks recoupment or refund of an adjudicated claim based on
22 coordination of benefits, the carrier must provide the health care
23 provider with notice specifying the reason for the denial, adjustment,
24 recoupment, or refund, and provide the name and address of the entity
25 that has acknowledged responsibility for payment of the adjudicated
26 claim. The health care provider has an additional six months from the
27 date the health care provider received the notice specified in this
28 subsection to submit a claim for reimbursement for the health care
29 service to the carrier, medical assistance program, government health
30 benefit program, or any other entity responsible for payment of
31 services provided. If both the carrier and provider agree, adjudicated
32 claims may be adjusted after the expiration of eighteen months from the
33 date the claim was paid.

34 (4) A health care provider may not retroactively seek adjustment of
35 a claim payment by a carrier for reasons related to coordination of
36 benefits with another carrier or other entity responsible for payment
37 of the claim after the expiration of thirty months from the date the
38 original claim was paid. If a provider retroactively seeks adjustment

1 of an adjudicated claim based on coordination of benefits, the health
2 care provider must provide the carrier with notice specifying the
3 reason for the adjustment, and provide the name and address of the
4 entity that has failed to acknowledge responsibility for payment of the
5 claim. The carrier has an additional six months from the date the
6 carrier receives the notice specified in this subsection to respond.
7 If both the carrier and provider agree, adjudicated claims may be
8 adjusted after the expiration of eighteen months from the date the
9 claim was paid.

10 (5) To prevent duplicate recovery for the same health service, a
11 carrier may seek recoupment, adjustment, or refund of an adjudicated
12 claim paid to a health care provider after the expiration of one year
13 from the date the initial claim was paid if: (a) The carrier is
14 seeking recovery of a claim payment owed by a third party, including
15 government entities, as a consequence of liability imposed by law, such
16 as that arising from tort liability; and (b) the carrier is unable to
17 seek recovery directly from the third party because the third party
18 either has paid or will pay the provider for the same health service as
19 the initial claim.

20 (6) A carrier or health care provider that retroactively denies,
21 adjusts, or seeks recoupment, adjustment, or refund of an adjudicated
22 claim must give the other party written notice specifying the reason
23 for the action taken. Any actions that are based upon medical
24 necessity determinations, level of service determinations, coding
25 errors, or billing irregularities must be reconciled by the carrier or
26 the provider to the specific claims in question.

27 (7) A health care provider or a carrier has thirty days after
28 receipt of the notice under subsection (6) of this section in which to
29 notify the other party that they are disputing or contesting the
30 action. When a provider or a carrier fails to respond in writing in
31 thirty days to a written notice of recoupment or adjustment, the
32 carrier or provider may consider the recoupment or adjustment accepted.
33 If the health care provider or a carrier disputes or contests the
34 action, then any disputed or contested claim payment is not subject to
35 recoupment, refunds, or adjustment by the other party until all the
36 appeals procedures, hearings, or other remedies available to the health
37 care provider and the carrier have been finally decided. If the

1 decision is favorable to the carrier, any disputed payment may be
2 offset in a future claim payment for that provider.

3 (8) The requirements of this section may not be waived by contract
4 or otherwise by the health care provider or carrier. This section
5 neither permits nor precludes a carrier from recovering from a
6 subscriber, enrollee, or beneficiary any amounts paid to a health care
7 provider for benefits to which the subscriber, enrollee, or beneficiary
8 was not entitled under the terms and conditions of the health plan,
9 insurance policy, or other benefit agreement.

10 (9) This section does not apply to carrier or provider payment or
11 recoupment practices with respect to claims or payments for health care
12 services provided through dental-only health carriers, health care
13 services provided under Title XVIII (medicare) of the social security
14 act, or medicare supplemental plans regulated under chapter 48.66 RCW.

15 NEW SECTION. **Sec. 2.** This act takes effect January 1, 2006.

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