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SECOND SUBSTITUTE HOUSE BILL 1418

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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 a paid 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 one year from the date the initial claim was paid. If a carrier  
12 retroactively denies, adjusts, or seeks recoupment or refund of a paid  
13 claim, the health care provider has an additional period of six months  
14 from the date the notice required by subsection (6) of this section was  
15 received within which to file either a revised claim or a request for  
16 reconsideration supported by additional medical records or information.

17 (2) A health care provider may not retroactively seek adjustment of  
18 a claim payment by a carrier for any reason, other than fraud or  
19 coordination of benefits, after the expiration of one year from the

1 date the initial claim was paid. If a provider retroactively seeks an  
2 adjustment of a paid claim, the carrier has an additional period of six  
3 months from the date the notice required by subsection (6) of this  
4 section was received within which to file a response.

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

26 (4) A health care provider may not retroactively seek adjustment of  
27 a claim payment by a carrier for reasons related to coordination of  
28 benefits with another carrier or other entity responsible for payment  
29 of the claim after the expiration of eighteen months from the date the  
30 original claim was paid. If a provider retroactively seeks adjustment  
31 of a paid claim based on coordination of benefits, the health care  
32 provider must provide the carrier with notice specifying the reason for  
33 the adjustment, and provide the name and address of the entity that has  
34 failed to acknowledge responsibility for payment of the claim. The  
35 carrier has an additional six months from the date the carrier receives  
36 the notice specified in this subsection to respond.

37 (5) To prevent duplicate recovery for the same health service, a  
38 carrier may seek recoupment, adjustment, or refund of a claim paid to

1 a health care provider after the expiration of one year from the date  
2 the initial claim was paid if: (a) The carrier is seeking recovery of  
3 a claim payment owed by a third party, including government entities,  
4 as a consequence of liability imposed by law, such as that arising from  
5 tort liability; and (b) the carrier is unable to seek recovery directly  
6 from the third party because the third party either has paid or will  
7 pay the provider for the same health service as the initial claim.

8 (6) A carrier or health care provider that retroactively denies,  
9 adjusts, or seeks recoupment, adjustment, or refund of a paid claim  
10 must give the other party written notice specifying the reason for the  
11 action taken. Any actions that are based upon medical necessity  
12 determinations, level of service determinations, coding errors, or  
13 billing irregularities must be reconciled by the carrier or the  
14 provider to the specific claims in question.

15 (7) A health care provider or a carrier has thirty days after  
16 receipt of the notice under subsection (6) of this section in which to  
17 notify the other party that they are disputing or contesting the  
18 action. When a provider or a carrier fails to respond in writing in  
19 thirty days to a written notice of recoupment or adjustment, the  
20 carrier or provider may consider the recoupment or adjustment accepted.  
21 If the health care provider or a carrier disputes or contests the  
22 action, then any disputed or contested claim payment is not subject to  
23 recoupment, refunds, or adjustment by the other party until all the  
24 appeals procedures, hearings, or other remedies available to the health  
25 care provider and the carrier have been finally decided. If the  
26 decision is favorable to the carrier, any disputed payment may be  
27 offset in a future claim payment for that provider.

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

35 (9) This section does not apply to carrier or provider payment or  
36 recoupment practices with respect to claims or payments for health care  
37 services under health plans providing only dental coverage, health care

1 services provided under Title XVIII (medicare) of the social security  
2 act, or medicare supplemental plans regulated under chapter 48.66 RCW.

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

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