SLS 18RS-1837 **ENGROSSED**

2018 Regular Session

SENATE BILL NO. 507

BY SENATOR MILLS

MEDICAID. Provides relative to Medicaid managed care organizations. (8/1/18)

AN ACT

To enact R.S. 46:460.72, relative to Medicaid managed care organizations; to provide for plan payment accountability; to provide for payment to providers; to provide for obligations by the managed care organizations; to provide for reimbursement to the state; to provide for authority of the attorney general; to provide for deposits into the Medical Assistance Programs Fraud Detection Fund; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 46:460.72 is hereby enacted to read as follows:

§460.72. Medicaid managed care plan payment accountability

A. Any Medicaid managed care organization that enrolls a provider into its provider network and fails to ensure proper compliance with Medicaid provider enrollment, credentialing, or accreditation requirements shall be liable for reimbursement to the provider for any services rendered to Medicaid recipients during the period in question, to be paid from the administrative funds of the managed care organization, until such time as the deficiency in the providers status is remedied if the provider relied in good faith on

misinformation by the managed care organization and acted without fault or fraudulent intent. The provider shall prove absence of fault or fraudulent intent by producing guidance, applications, or other written communication from the managed care organization that bears incorrect information. In addition to the managed care organization being responsible for payment to the provider, the Louisiana Department of Health shall impose penalties on the managed care organization in accordance with rules and regulations promulgated pursuant to the Administrative Procedure Act.

B.(1) Any Medicaid managed care organization that enrolls a provider into the provider network and fails to ensure proper compliance with Medicaid provider enrollment, credentialing, or accreditation requirements shall be liable for reimbursement to the state for any claims paid to the provider during the period in question, to be paid from the administrative funds of the managed care organization, if the provider acted with fault or fraudulent intent. Failure to execute the provisions of their responsibility to mitigate fraud and waste shall not be considered a risk of the Medicaid managed care organization. The provisions of this Subsection do not preclude the Medicaid managed care organization from recouping and retaining improper payments and overpayments to a provider after the state has been reimbursed.

(2) In addition to the managed care organization being responsible for reimbursement to the state for any payments made to a provider, the Louisiana Department of Health shall impose penalties on the managed care organization in accordance with rules and regulations promulgated pursuant to the Administrative Procedure Act. The managed care organization shall not allege fault or fraudulent intent by a provider unless it can produce written documentation prepared by the provider that includes false information submitted by the provider to the managed care organization.

C. Each Medicaid managed care organization shall report every instance of fraud, waste, or abuse to the Louisiana Department of Health and the

attorney general. In addition to the sanction and enforcement authority of the Louisiana Department of Health pursuant to a properly executed contract, the attorney general shall have the authority to investigate, enforce, impose sanctions upon, and seek recoupment from any Medicaid managed care organization pursuant to the provisions of this Section. Recoupments shall be returned to the department. All sanctions, penalties, civil monetary penalties, and additional recoveries or costs of investigations shall be deposited into the Medical Assistance Programs Fraud Detection Fund, as established in R.S. 46:440.1.

D. Nothing in this Section shall be construed to prevent the Louisiana Department of Health or the attorney general from enforcing and imposing penalties otherwise provided for in law or regulation.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

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Proposed law provides that a Medicaid managed care organization shall be liable to a provider for payment of claims to the provider when the provider followed instructions of the managed care organization to his detriment and did not act with fault or fraudulent intent regarding enrollment, credentialing, or accreditation.

Proposed law provides that a Medicaid managed care organization shall be liable to the state for any payment to providers when the provider acts with fault or fraudulent intent regarding enrollment, credentialing, or accreditation. Proposed law provides that failure to execute the provisions of their responsibility to mitigate fraud and waste is not considered a risk of the Managed care organization.

Proposed law provides that the Medicaid managed care organization is not precluded from recouping and retaining improper payments and overpayments to a provider after the state has been reimbursed.

Proposed law requires the managed care organization to cover the expense of reimbursement to the provider or to the state from the administrative funding allocated to the managed care organization. Proposed law requires the Louisiana Department of Health to impose penalties on the Medicaid managed care plan for the infractions established in proposed law in accordance with rules and regulations promulgated pursuant to the Administrative Procedure Act.

Proposed law requires each Medicaid managed care organization to report every instance of fraud, waste, or abuse to the Louisiana Department of Health and the attorney general.

Proposed law gives the attorney general authority to investigate, enforce, impose sanctions upon, and seek recoupment from the Medicaid managed care plans. Proposed law returns

recoupments to the Louisiana Department of Health and deposits all other monies received from the Medicaid managed care organizations into the Medical Assistance Programs Fraud Detection Fund.

Proposed law provides that nothing in proposed law prevents the Louisiana Department of Health or the attorney general from enforcing and imposing penalties otherwise provided for in law or regulation.

Effective August 1, 2018.

(Adds R.S. 46:460.72)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Provides that failure to execute the provisions of the managed care organization's contractual responsibility to mitigate fraud and waste is not considered a risk of the managed care organization.

2. Provides that the Medicaid managed care organization is not precluded from recouping and retaining improper payments and overpayments to a provider after the state has been reimbursed.

3. Requires each Medicaid managed care organization to report every instance of fraud, waste, or abuse to the Louisiana Department of Health and the attorney general.

4. Clarifies that among the attorney general's enforcement authority is the ability to impose penalties, civil monetary penalties, and additional recoveries or costs of investigations.

5. Clarifies that the Louisiana Department of Health or the attorney general shall not be precluded from enforcing and imposing penalties otherwise provided for in law or regulation.

6. Replaces "monetary sanctions" with "penalties".

7. Removes the word "irrefutably" from the burden of proof provision regarding false information submitted by the provider to the managed care organization.