



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 89

December 9, 2022

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 7889-A, entitled:

“AN ACT to amend the public health law and the social services law, in relation to the functions of the Medicaid inspector general with respect to audit and review of medical assistance program funds and requiring notice of certain investigations”

NOT APPROVED

The Office of the Medicaid Inspector General (OMIG) is tasked with auditing healthcare providers for compliance with Medicaid rules and standards found in state and federal law and regulation. This legislation would restrict OMIG’s ability to enforce such standards by limiting the audit and recovery of improper Medicaid claims. These limitations would prevent the State from collecting the overpayments which federal law and audits require. It would do so without relieving the State’s obligations from paying the federal government, leaving the State to absorb the cost.

Further, the processes added in this legislation would adversely impact OMIG’s ability to identify fraud in the Medicaid program. This is critical since Medicaid increasingly covers more home-based care and telehealth care, and relies on audits to ensure Medicaid dollars are spent taking care of New Yorkers.

The provider community is central to the success of the Medicaid program and the healthcare of the entire State. It is important that OMIG continue to ensure Medicaid meet the standards set by state and federal law. It is also imperative that audit processes do not place an undue burden on providers, who work tirelessly to care for New Yorkers. Therefore, I am directing OMIG to take several steps to address the concerns that underlie this bill, including:

- Engage the healthcare provider community and Medicaid stakeholders to solicit input on the concerns raised in this bill.
- Perform a comprehensive review of the agency’s program integrity processes and identify areas for improvement.
- Commit to conducting program integrity activities in a responsible manner that includes consideration of financial impacts on providers and assures continuity of care for Medicaid recipients.
- Assess opportunities to include additional reporting elements in the agency’s Annual Report as outlined in the bill, including requests by providers for financial hardship and a narrative on the impacts of enforcement actions.

Given the problems enactment of this legislation poses for the successful operation of the Medicaid program, I am constrained to veto this bill.

The bill is disapproved.

A handwritten signature in black ink that reads 'Kathy Hochul'.