

Dec. 3, 2022

The Honorable Kathy Hochul
Governor
NYS State Capitol
Albany, NY 12224

Re: A.7889-A (Gottfried)/S.4486-B (Harckham)

Dear Governor Hochul,

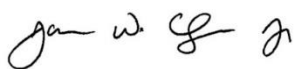
LeadingAge New York and its over 400 not-for-profit, mission-driven long-term care provider members write to you today in support of legislation A.7889-A (Gottfried)/S.4486-B (Harckham), which would provide common sense due process protections to health care providers and recipients in the medical assistance program when under scrutiny by the Office of the Medicaid Inspector General (OMIG).

This legislation aims to codify into law appropriate procedures, practices, and standards as it relates to OMIG review of Medicaid payments. It specifies that in conducting reviews or audits, the inspector shall apply the laws, regulations, policies, guidelines, standards and interpretations of the appropriate agency, including the temporary or emergency regulations, policies, guidelines, standards and interpretations that were in place at the time the subject claim arose, or other conduct took place. Any change in those laws, regulations, policies, guidelines, standards or interpretations shall only be applied prospectively and upon reasonable notice. Codifying these best practices into law becomes especially important when considering audits of COVID-19 time periods when providers were subject to a barrage of changing, and sometimes contradictory, guidance, and numerous regulatory requirements were waived.

In addition, this bill's allowance that technical defects or other minor errors may be corrected prior to any recovery being made by the inspector helps to ensure that straightforward mistakes do not result in disproportionate fines and recoveries. While it is critical for oversight agencies to ensure the integrity of the program and to address actual fraud, simple errors should be addressed appropriately. Under this legislation, providers would be permitted an opportunity to correct a mistake and resubmit a claim within thirty days of notice from the inspector in cases where it is clear that no intent exists to defraud or falsify a claim. As the bill's sponsors indicate, OMIG audits that punish providers for technical errors, not fraud, do not help anyone in the Medicaid system, especially if those errors are driven by contradictory guidance provided by different state agencies.

Recovering thousands of dollars in claims from a small sample of technical errors only pushes mission-driven long-term care providers closer to closure, which ultimately harms our older adults and their access to quality aging services. Ensuring the common-sense best practices outlined in this legislation become standard operating procedures would benefit to the full continuum of long-term care and aging services and the individuals we serve. For these reasons, LeadingAge NY supports A.7889-A (Gottfried)/S.4486-B (Harckham) and urges that it be signed into law.

Sincerely,



James W. Clyne, Jr.
President and CEO
LeadingAge New York