



THE HOSPITAL & HEALTHSYSTEM ASSOCIATION OF PENNSYLVANIA

December 6, 2011

TO: Honorable Members of the House of Representatives
FROM: Scott A. Bishop, Senior Vice President, Legislative Services
SUBJECT: State False Claims Amendments

Issue: Representative Mike Gerber (D-Montgomery) plans to offer an amendment to House Bill 1891, which would establish a Medicaid False Claims Act that provides an incentive for private individuals to file lawsuits on behalf of the state for alleged fraud and, then collect a “bounty” of up to 25 percent of Pennsylvania’s award—plus costs and attorney fees.

Background: The amendment filed to House Bill 1891, allows the commonwealth to sue companies for knowingly filing false Medicaid claims. There currently are an array of state and federal agencies and laws and regulatory requirements governing fraud and abuse. Enacting a false claims act will only create confusion and delay the investigation and prosecution of legitimate cases. Additionally, there is no evidence that additional filings are brought as a result of enactment of duplicative state laws. The bill also lacks provisions for voluntary compliance programs, currently recognized at the federal level, that permit reduced damages and ensure against unjust and excessively punitive investigations and prosecutions.

Health care providers are dedicated in the pursuit and elimination of true fraud and abuse. Because of this, appropriate measures, including strict compliance programs and significant resources, have been devoted to ensure that the potential for fraud is prevented. Establishing a state false claims act creates an unnecessary level of scrutiny and will further hinder the recruitment and retention of physicians practicing in Pennsylvania. Currently, under Pennsylvania law, “false claims” are pursued under the criminal statute of theft by deception or under the federal false claims act. In regards to Medicaid claims, the Office of Attorney General has a Medicaid Fraud and Control Unit, and the Department of Public Welfare’s Bureau of Program Integrity has a program to pursue false claims or services.

HAP Position: HAP is opposed to the amendment since it would create yet another layer of oversight that is both unnecessary and duplicative of existing law.

For More Information: If you have any questions, please contact me at sbishop@haponline.org or (717) 561-5235; or Kathy Mebus, vice president, state legislation, at kmebus@haponline.org or (717) 561-5351.

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