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LEGISLATIVE ACTION

Senate	.	House
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Senator Gaetz moved the following:

Senate Amendment (with title amendment)

Delete lines 307 - 2565

and insert:

Section 1. Subsections (21) and (22) of section 409.913, Florida Statutes, are amended to read:

409.913 Oversight of the integrity of the Medicaid program.—The agency shall operate a program to oversee the activities of Florida Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, and to recover overpayments and impose sanctions as appropriate. Beginning January 1, 2003, and each year



457742

14 thereafter, the agency and the Medicaid Fraud Control Unit of
15 the Department of Legal Affairs shall submit a joint report to
16 the Legislature documenting the effectiveness of the state's
17 efforts to control Medicaid fraud and abuse and to recover
18 Medicaid overpayments during the previous fiscal year. The
19 report must describe the number of cases opened and investigated
20 each year; the sources of the cases opened; the disposition of
21 the cases closed each year; the amount of overpayments alleged
22 in preliminary and final audit letters; the number and amount of
23 fines or penalties imposed; any reductions in overpayment
24 amounts negotiated in settlement agreements or by other means;
25 the amount of final agency determinations of overpayments; the
26 amount deducted from federal claiming as a result of
27 overpayments; the amount of overpayments recovered each year;
28 the amount of cost of investigation recovered each year; the
29 average length of time to collect from the time the case was
30 opened until the overpayment is paid in full; the amount
31 determined as uncollectible and the portion of the uncollectible
32 amount subsequently reclaimed from the Federal Government; the
33 number of providers, by type, that are terminated from
34 participation in the Medicaid program as a result of fraud and
35 abuse; and all costs associated with discovering and prosecuting
36 cases of Medicaid overpayments and making recoveries in such
37 cases. The report must also document actions taken to prevent
38 overpayments and the number of providers prevented from
39 enrolling in or reenrolling in the Medicaid program as a result
40 of documented Medicaid fraud and abuse and must recommend
41 changes necessary to prevent or recover overpayments.

42 (21) When making a determination that an overpayment has



457742

43 occurred, the agency shall prepare and issue an audit report to
44 the provider showing the calculation of overpayments. If the
45 agency's determination that an overpayment has occurred is based
46 upon a review of the provider's records, the calculation of the
47 overpayment shall be based upon documentation created prior to
48 the start of any investigation or created at the request of the
49 agency.

50 (22) The audit report, supported by agency work papers,
51 showing an overpayment to a provider constitutes evidence of the
52 overpayment. A provider may not present or elicit testimony,
53 either on direct examination or cross-examination in any court
54 or administrative proceeding, regarding the purchase or
55 acquisition by any means of drugs, goods, or supplies; sales or
56 divestment by any means of drugs, goods, or supplies; or
57 inventory of drugs, goods, or supplies, unless such acquisition,
58 sales, divestment, or inventory is documented by written
59 invoices, written inventory records, or other competent written
60 documentary evidence maintained in the normal course of the
61 provider's business. Notwithstanding the applicable rules of
62 discovery, all documentation that will be offered as evidence at
63 an administrative hearing on a Medicaid overpayment must be
64 exchanged by all parties at least 14 days before the
65 administrative hearing or must be excluded from consideration.
66 The documentation or data that a provider may rely upon or
67 present as evidence that an overpayment has not occurred must
68 have been created prior to the start of any agency investigation
69 and must be made available to the agency before issuance of a
70 final audit report, unless the documentation or data was created
71 at the request of the agency. Documentation or data that was



457742

72 recreated due to extenuating circumstances beyond the provider's
73 control, such as a disaster or the loss of records due to change
74 of ownership, may be presented as evidence if evidence of the
75 extenuating circumstance is also provided. This subsection does
76 not prohibit the introduction of expert witness reports
77 regarding an overpayment or the issues addressed in the audit.
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81 ===== T I T L E A M E N D M E N T =====

82 And the title is amended as follows:

83 Delete lines 2 - 188

84 and insert:

85 An act relating to health care; amending s. 409.913, F.S.;
86 requiring the Agency for Health Care Administration to use
87 specified documents from a provider's records to calculate an
88 overpayment by the Medicaid program; prohibiting a provider from
89 using certain documents or data as evidence when challenging a
90 claim of overpayment by the Agency for Health Care
91 Administration; providing an exception; amending s.
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