

House Bill 916

By: Representatives Hightower of the 68<sup>th</sup>, Welch of the 110<sup>th</sup>, McCall of the 33<sup>rd</sup>, Knight of the 130<sup>th</sup>, Petrea of the 166<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 26-4-118 of the Official Code of Georgia Annotated, relating to  
2 "The Pharmacy Audit Bill of Rights," so as to remove an exception relating to certain audits  
3 conducted by the Department of Community Health; to amend Article 7 of Chapter 4 of Title  
4 49 of the Official Code of Georgia Annotated, relating to medical assistance generally, so as  
5 to provide that clerical or other errors do not constitute a basis to recoup payments made by  
6 providers of medical assistance; to provide for a correction period; to amend Chapter 1 of  
7 Title 50 of the Official Code of Georgia Annotated, relating to general provisions regarding  
8 state government, so as to provide that clerical or other errors do not constitute a basis to  
9 recoup payments made by providers of medical assistance; to provide for a correction period;  
10 to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Code Section 26-4-118 of the Official Code of Georgia Annotated, relating to "The  
14 Pharmacy Audit Bill of Rights," is amended by revising subsection (g) as follows:

15 "~~(g) The provisions of paragraph (3) of subsection (b) of this Code section shall not apply~~  
16 ~~to the Department of Community Health conducting audits under Article 7 of Chapter 4 of~~  
17 ~~Title 49. Reserved.~~"

18 style="text-align:center">**SECTION 2.**

19 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to  
20 medical assistance generally, is amended by adding a new Code section to read as follows:

21 "49-4-151.1.

22 (a) Any clerical or record-keeping error, including but not limited to a typographical error,  
23 scrivener's error, or computer error; any unintentional error or omission in billing, coding,  
24 or required documentation; or any isolated instances of incomplete documentation by a  
25 provider of medical assistance regarding reimbursement for medical assistance provided

26 shall not in and of itself constitute fraud or constitute a basis to recoup full payment for  
 27 medical assistance provided. No such claim shall be subject to criminal penalties without  
 28 proof of intent to commit fraud. No recoupment of the cost of medical assistance provided  
 29 shall be allowed if such error, omission, or incomplete documentation has occurred and  
 30 been resolved in accordance with subsection (b) of this Code section; provided, however,  
 31 that recoupment shall be allowed to the extent that the error, omission, or incomplete  
 32 documentation resulted in an overpayment, though recoupment shall be limited to the  
 33 amount overpaid.

34 (b) A provider of medical assistance shall be allowed 30 days following notice to the  
 35 provider of an error, omission, or incomplete documentation identified pursuant to an audit  
 36 or review process in which to correct such error or omission or to complete such  
 37 documentation.

38 (c) A provider of medical assistance shall be afforded the right to a hearing in accordance  
 39 with Code Section 49-4-153 for any attempted withholding of reimbursement or  
 40 recoupment by the department or its agents relating to an error, omission, or incomplete  
 41 documentation relating to the provision of medical assistance."

### 42 **SECTION 3.**

43 Chapter 1 of Title 50 of the Official Code of Georgia Annotated, relating to general  
 44 provisions regarding state government, is amended by adding a new Code section to read as  
 45 follows:

46 "50-1-10.

47 (a) No state agency that provides recoupment or reimbursement to another entity shall  
 48 establish any rules that would require full recoupment or withholding of reimbursement for  
 49 any clerical or record-keeping error, including but not limited to a typographical error,  
 50 scrivener's error, or computer error; any unintentional error or omission in billing, coding,  
 51 or required documentation; or any isolated instances of incomplete documentation by the  
 52 entity. Any such error, omission, or incomplete documentation shall not in and of itself  
 53 constitute fraud. No such claim shall be subject to criminal penalties without proof of  
 54 intent to commit fraud. No recoupment or withholding of reimbursement shall be allowed  
 55 if such error, omission, or incomplete documentation has occurred and been resolved in  
 56 accordance with subsection (b) of this Code section; provided, however, that recoupment  
 57 shall be allowed to the extent that the error, omission, or incomplete documentation  
 58 resulted in an overpayment, though recoupment shall be limited to the amount overpaid.

59 (b) An entity shall be allowed 30 days following notice to the entity of an error, omission,  
 60 or incomplete documentation identified pursuant to an audit or review process in which to  
 61 correct such error or omission or to complete such documentation.

62 (c) An entity shall be afforded the right to a hearing in accordance with Chapter 13 of Title  
63 50, the 'Georgia Administrative Procedure Act' for any attempted withholding of  
64 reimbursement or recoupment by a state agency or its agents relating to an error, omission,  
65 or incomplete documentation."

66 **SECTION 4.**

67 All laws and parts of laws in conflict with this Act are repealed.