

The Senate Committee on Health and Human Services offered the following substitute to HB 206:

A BILL TO BE ENTITLED  
AN ACT

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

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

10 Code Section 26-4-118 of the Official Code of Georgia Annotated, "The Pharmacy Audit Bill  
11 of Rights," is amended by revising subsection (g) as follows:  
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13 "(g) The provisions of paragraph (3) of subsection (b) of this Code section shall not apply  
14 to the Department of Community Health conducting audits under Article 7 of Chapter 4 of  
15 Title 49; provided, however, that the provisions of Code Section 49-4-151.1 shall apply to  
16 such audits conducted by the Department of Community Health under Article 7 of  
17 Chapter 4 of Title 49."

**SECTION 2.**

18 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to  
19 medical assistance generally, is amended by adding a new Code section to read as follows:  
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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 may not in

26 and of itself constitute fraud or constitute a basis to recoup payment for medical assistance  
27 provided, so long as any such errors or instances do not result in an improper payment. An  
28 improper payment includes any payment that was made to an ineligible recipient, payment  
29 for noncovered services, duplicate payments, payments for services not received, payments  
30 that are for the incorrect amount, and instances when the department is unable to discern  
31 whether a payment was proper because of insufficient or lack of documentation. The  
32 department or its agents shall not recoup the cost of medical assistance if such error,  
33 omission, or incomplete documentation has been resolved in accordance with  
34 subsection (b) of this Code section; provided, however, that recoupment shall be allowed  
35 to the extent that the error, omission, or incomplete documentation resulted in an improper  
36 payment, though recoupment shall be limited to the amount improperly paid.

37 (b) A provider of medical assistance shall be allowed 30 calendar days following receipt  
38 by the provider of a preliminary audit review report in which to submit records or  
39 documents to correct an error or omission or to complete documentation identified in such  
40 review report; provided, however, that the department or its agents, in the discretion of the  
41 department, may reject the submission of a corrected record or document if the submission  
42 would result in an improper payment, or the provider demonstrates a pattern of repeated  
43 errors, omissions, or incomplete documentation. The department shall be authorized to  
44 establish rules and regulations delineating what constitutes a pattern of repeated errors,  
45 omissions, or incomplete documentation taking into consideration the type of provider;  
46 frequency of audits; volume of claims submitted by a provider; type of error, omission, or  
47 incomplete documentation; and other pertinent factors.

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

52 (d) This Code section shall not apply to criminal or civil investigations which involve  
53 fraud, willful misrepresentation, reckless disregard, or abuse conducted by the Attorney  
54 General's Medicaid Fraud Control Unit or other law enforcement agencies."

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### SECTION 3.

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