



**2023 OMIG Reform Bill A.6813 (Paulin) / S. 5329A (Harckham)**

The following is a summary of the most significant changes to the OMIG reform bill from its prior version that was vetoed by Governor Hochul last year.

**Additions to the Prior Proposed Bill:**

1. Adds a new PHL § 30-a (6) – Adds a definition of “Overpayment” for the purposes of Medicaid payment audits that aligns with existing federal and state law, and also excludes instances of provider noncompliance with any program requirements that are not a condition of payment, except where there is fraud or deceit or where the provider had prior notice of its noncompliance and failed to correct such deficiencies.
2. Adds PHL § 37(5)(b) – Prohibits the OMIG from extrapolating findings unless there is a sustained or high level of payment error and defines “sustained or high level of payment error.”
3. Adds PHL § 37(7) – Adds a savings clause that the new law will be interpreted consistent with federal requirements.
4. Adds flush language to PHL § 37 – Makes the auditing standards under PHL § 37 applicable to anyone, including any agency, lawfully authorized to conduct such audit.

**Other Changes/Revisions to the Prior Proposed Bill:**

1. Replaces PHL § 30-a(6) with PHL § 30-a(4) – Creates a new definition of medical assistance that explicitly includes payments made under fee-for-service and managed care Medicaid.
2. Revises PHL § 37(1) – Maintains the previously proposed 60-day minimum cooling off period after the Final Audit Report before the OMIG can commence recoupment, but adds an exception for when there is a credible allegation of fraud or a finding of abuse or unacceptable practice.

3. Revises PHL § 37(3) – Maintains the requirement that the OMIG apply the rules and guidance in effect at the time services were rendered, but adds an acknowledgment that rules are not in effect for purposes of this rule if federal approval is pending or denied.
4. Revises PHL § 37(4) – Omits the prohibition against recoupment for technical or administrative defects and replaces it with an opportunity for the provider to correct the administrative technical error or defect, provided it is effectuated within 60 days from notice or six years from the date of service. The prior proposal gave providers only 30 days from notice to correct such defects.
5. Revises PHL § 37(6)(b) – Requires the OMIG to utilize extrapolation methodologies that are consistent with accepted standards of sound auditing practice and statistical analysis.