

25103764D

SENATE BILL NO. 1164

Offered January 8, 2025

Prefiled January 7, 2025

A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 10 of Title 32.1 a section numbered 32.1-331.07 and by adding in Title 32.1 a chapter numbered 10.1, consisting of sections numbered 32.1-331.18 through 32.1-331.21, relating to Office of Medicaid Financial Oversight established; report.

Patron—McDougle

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 10 of Title 32.1 a section numbered 32.1-331.07 and by adding in Title 32.1 a chapter numbered 10.1, consisting of sections numbered 32.1-331.18 through 32.1-331.21, as follows:

§ 32.1-331.07. Department to support Office of Medicaid Financial Oversight.

A. For purposes of this section:

"Medicaid programs" means the state plan for medical assistance services the Department is authorized to administer pursuant to subsection D of § 32.1-325.

"Children's health insurance programs" means the Family Access to Medical Insurance Security Plan established pursuant to § 32.1-351.

B. The Department shall provide the Office of Medicaid Financial Oversight, established pursuant to Chapter 10.1 (§ 32.1-331.18 et seq.) with all necessary data and information, in a timely manner, to carry out its duties.

B. Prior to the implementation of any change to Medicaid programs or children's health insurance programs, the Department shall provide at least 30 days' notice to the Director of the Office of Medicaid Financial Oversight of such change. At a minimum, any such change shall include state plan amendments, amendments to federal waivers, federal waiver renewals, regulatory changes, guidance document changes, provider manual changes, provider memos, managed care contract changes, technical assistance manual changes, or any other communication of official policy proposed by the Department. If the Director of the Office of Medicaid Financial Oversight determines that a proposed change would have a fiscal impact for which there is no specific federal requirement, state authorization, or legislative appropriation in the current general appropriation act, then such policy change shall not be valid or become effective absent a specific authorization therefor authorized by the General Assembly.

CHAPTER 10.1.**OFFICE OF MEDICAID FINANCIAL OVERSIGHT.****§ 32.1-331.18. Office of Medicaid Financial Oversight established; definitions.**

A. There is hereby established as an independent agency of the Commonwealth, exclusive of the legislative, executive, or judicial branches of government, the Office of Medicaid Financial Oversight for the purpose of providing financial oversight and fiscal accountability for the Commonwealth's Medicaid and children's health insurance programs.

B. For purposes of this chapter:

"Medicaid programs" means the state plan for medical assistance services the Department is authorized to administer pursuant to subsection D of § 32.1-325.

"Children's health insurance programs" means the Family Access to Medical Insurance Security Plan established pursuant to § 32.1-351.

§ 32.1-331.19. Appointment, qualifications, and salary of Director.

A. The Office of Medicaid Financial Oversight shall be under the immediate supervision and direction of a Director, who shall be a person of good reputation, particularly as to honesty and integrity. The Director shall be appointed by the Governor, subject to (i) confirmation by the General Assembly during the regular session or special session of the General Assembly in which the appointment is made or (ii) if the appointment is not made during such regular session or special session, confirmation by the General Assembly in the immediately succeeding regular session or special session after such appointment is made. The Director shall be appointed for a four-year term. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until 30 days after the next regular session of the General Assembly and, if confirmed, thereafter for the remainder of such term. The Governor may remove the Director from office for malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, or failure to carry out the policies of the Commonwealth as established in the Constitution of Virginia or by the General Assembly. The Governor shall set forth in a written public statement his reasons

59 *for removing the Director at the time the removal occurs.*

60 *B. The Director shall receive a salary as provided in the general appropriation act.*

61 *C. The Director shall devote his full time to the performance of his official duties and shall not be*
62 *engaged in any other profession or occupation during his term.*

63 ***§ 32.1-331.20. Powers and duties of Director.***

64 *The Director of the Office of Medicaid Financial Oversight shall have the power and duty to:*

65 *1. Operate and manage the Office of Medicaid Financial Oversight and employ such personnel as may be*
66 *required to carry out the provisions of this chapter;*

67 *2. Make and enter into contracts and agreements as may be necessary and incidental to carry out the*
68 *provisions of this chapter, and apply and accept grants from the United States government and agencies and*
69 *instrumentalities thereof, and any other source, in furtherance of the provisions of this chapter;*

70 *3. Prepare a monthly budget variance report on the Medicaid and children's health insurance programs*
71 *with an explanation of any variance between expenditures and budget. Such report shall be submitted to the*
72 *Governor and the Chairs of the House Committee on Appropriations and the Senate Committee on Finance*
73 *and Appropriations by the twentieth day of each month;*

74 *4. Review the estimate and forecast of expenditures required by § 32.1-323.1 and provide feedback to the*
75 *Governor, the Department of Planning and Budget, the Department of Medical Assistance Services, the*
76 *House Committee on Appropriations, and the Senate Committee on Finance and Appropriations on the*
77 *validity of its assumptions as part of such review. The Director shall provide such feedback at least five days*
78 *prior to the submission of the final forecast;*

79 *5. Review fee for service claims and managed care encounter data on a regular basis to determine*
80 *unexplained trends that may have a significant and unplanned fiscal impact and to report such trends to the*
81 *Governor, the Director of the Department of Medical Assistance Services, the Director of the Department of*
82 *Planning and Budget, and the staff of the House Committee on Appropriations and the Senate Committee on*
83 *Finance and Appropriations;*

84 *6. Employ staff actuaries or contract with a reputable actuarial firm, with experience in Medicaid*
85 *managed care, to review annually the capitation rates for the Commonwealth's Medicaid managed care*
86 *programs to determine if the rates are cost-effective and in the best interests of the Commonwealth and to*
87 *report to the Governor and the General Assembly on any findings resulting from such review on an annual*
88 *basis;*

89 *7. Monitor the Medicaid and children's health insurance programs to ensure cost-effectiveness in the*
90 *delivery of health care services and develop strategies to achieve such cost-effectiveness and report on such*
91 *strategies to the Governor and the General Assembly on an annual basis;*

92 *8. Review and make recommendations to the General Assembly regarding any federal deferral or*
93 *disallowance of federal funds communicated by the Centers for Medicare and Medicaid Services (CMS). The*
94 *Department of Medical Assistance Services shall report any federal deferral or disallowance to the Director*
95 *within three days of such communication from CMS. The Director shall review the reasons for such deferral*
96 *or disallowance and report to the Governor and the General Assembly within 30 days on such federal actions*
97 *and any recommendations to mitigate federal repayment and necessary changes at the Department of*
98 *Medical Assistance Services to ensure such adverse federal action will not occur again in the future;*

99 *9. Review and determine the fiscal impact of any change to the Commonwealth's Medicaid or children's*
100 *health insurance programs. Such changes shall include state plan amendments, amendments to federal*
101 *waivers, federal waiver renewals, regulatory changes, guidance document changes, provider manual*
102 *changes, provider memos, managed care contract changes, technical assistance manual changes, or any*
103 *other communication of official policy proposed by the Department of Medical Assistance Services. If the*
104 *Director of the Office of Medicaid Financial Oversight determines that a proposed change would have a*
105 *fiscal impact for which there is no specific federal requirement, state authorization, or legislative*
106 *appropriation in the current general appropriation act, then such policy change shall not be valid or become*
107 *effective until a specific authorization is provided by the General Assembly;*

108 *10. By October 15 of each year, prepare and submit a report regarding the fiscal impact of any policy*
109 *changes implemented for the Medicaid and children's health insurance programs in the Commonwealth in*
110 *the prior fiscal year. The report shall include the original amount budgeted for the policy change and the*
111 *actual expenditures or savings related to the policy change. The report shall also track policy changes for six*
112 *years following the date of implementation. For each policy change that is tracked, the report shall include*
113 *the original amount budgeted for the policy change and the actuarial expenditures. The Director shall submit*
114 *the report to the Governor, the Director of the Department of Planning and Budget, the Director of the*
115 *Department of Medical Assistance Services, and the Chairs of the House Committee on Appropriations and*
116 *the Senate Committee on Finance and Appropriations;*

117 *11. Monitor the collection of pharmacy rebates for the Medicaid and children's health insurance*
118 *programs and recommend ways to improve transparency and collection of such rebates and the methods to*
119 *ensure the Commonwealth is receiving and accounting for all pharmacy rebates it is eligible to receive and*

120 to report to the Governor and the General Assembly on an annual basis of such recommendations;

121 12. Monitor and review the collection of any provider assessments to ensure such assessments are
122 collected and expended appropriately; and

123 13. Make an annual report of the activities of his office to the Governor and the General Assembly for the
124 prior fiscal year by no later than December 1 of each year.

125 **§ 32.1-331.21. Collaboration with other state agencies.**

126 A. The Department of Medical Assistance Services, the Department of Social Services, and all other
127 agencies of the Commonwealth, their staff, and their employees shall provide the Office of Medicaid
128 Financial Oversight with all necessary information and data, in a timely manner, for the performance of its
129 duties.

130 B. The Department of Medical Assistance Services shall make its systems and data available and
131 accessible for purposes of performing any duties pursuant to this chapter. The Director shall be provided
132 access and any employee of the Office of Medicaid Financial Oversight shall be provided direct access to
133 such systems and data.

134 **2. That notwithstanding any other provision of law, the Department of Medical Assistance Services is**
135 **authorized and directed to transfer federal matching funds for the fiscal year beginning July 1, 2025, in**
136 **an amount that is sufficient and adequate to provide for the operation of the Office of Medicaid**
137 **Financial Oversight, established pursuant to § 32.1-331.18 of the Code of Virginia, as created by this**
138 **act.**