

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 108 Session of 2021

INTRODUCED BY OWLETT, GAYDOS, SANKEY, THOMAS, IRVIN, GROVE, RYAN, KAUFFMAN, SAYLOR, BERNSTINE, GLEIM, WEBSTER, WHEELAND AND B. MILLER, JANUARY 11, 2021

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 13, 2021

AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania
2 Consolidated Statutes, providing for ~~payments by the~~ <--
3 ~~Commonwealth~~ IMPROPER PAYMENTS; and establishing Do-Not-Pay <--
4 Initiative.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 71 of the Pennsylvania Consolidated
8 Statutes is amended by adding a part to read:

9 PART IV <--

10 PAYMENTS BY THE COMMONWEALTH

11 Chapter

12 35. Do Not Pay Initiative

13 CHAPTER 35

14 DO NOT PAY INITIATIVE

15 Sec.

16 3501. Definitions.

17 3502. Establishment.

18 3503. Award and payment.

1 ~~§ 3501. Definitions.~~

2 ~~The following words and phrases when used in this chapter~~
3 ~~shall have the meanings given to them in this section unless the~~
4 ~~context clearly indicates otherwise:~~

5 ~~"Commonwealth agency." A department, agency or commission of~~
6 ~~the Commonwealth under the policy supervision and control of the~~
7 ~~Governor.~~

8 ~~"Contractor." A person, including, but not limited to, a~~
9 ~~bidder, offeror, loan recipient grantee or lessor, who has~~
10 ~~furnished or performed or seeks to furnish or perform goods,~~
11 ~~supplies, services, leased space, construction or other activity~~
12 ~~with an executive agency.~~

13 ~~"Department." The Treasury Department of the Commonwealth.~~

14 ~~"Entity." A corporation, joint stock association, business~~
15 ~~trust, limited liability company, sole proprietorship, nonprofit~~
16 ~~corporation or Subchapter S corporation.~~

17 ~~"Improper payment." A payment made by a Commonwealth agency~~
18 ~~that:~~

19 ~~(1) exceeds the amount a recipient should have received~~
20 ~~from a Commonwealth agency;~~

21 ~~(2) is less than the amount a recipient should have~~
22 ~~received from the Commonwealth;~~

23 ~~(3) makes a payment to a recipient that was ineligible~~
24 ~~to receive money from the particular program from the~~
25 ~~Commonwealth;~~

26 ~~(4) was ineligible;~~

27 ~~(5) was duplicative or redundant;~~

28 ~~(6) was for a service which was never received; or~~

29 ~~(7) was for a service that does not account for or was~~
30 ~~not given any of the available credits or the discounts~~

1 ~~available for the service rendered.~~

2 ~~"Initiative." The Do Not Pay Initiative established under~~
3 ~~section 3502 (relating to establishment).~~

4 ~~"Office." The Governor's Budget Office.~~

5 ~~"Payment." Money expended by the Commonwealth as part of the~~
6 ~~operating budget for the Commonwealth.~~

7 ~~"Recipient." An individual, contractor or entity.~~

8 ~~"Secretary." The Secretary of the Budget of the~~
9 ~~Commonwealth.~~

10 ~~§ 3502. Establishment.~~

11 ~~(a) Initiative establishment. The Do Not Pay Initiative is~~
12 ~~established in the department for the purpose of monitoring~~
13 ~~improper payments across Commonwealth agencies. As part of the~~
14 ~~initiative, the department shall enter into a memorandum of~~
15 ~~understanding with the United States Treasury Department to join~~
16 ~~the United States Treasury Department's Do Not Pay program.~~

17 ~~(b) Operation and assistance. The office shall assist the~~
18 ~~department in the operation of the initiative and ensure the~~
19 ~~department has the necessary information from each Commonwealth~~
20 ~~agency.~~

21 ~~(c) Database. The initiative shall provide a searchable~~
22 ~~database of recipients that are not eligible to receive payment~~
23 ~~from the Commonwealth under section 3503 (relating to award and~~
24 ~~payment).~~

25 ~~(d) Agency use of database. An agency shall, with the~~
26 ~~assistance of the office, utilize the database under subsection~~
27 ~~(c) in order to determine eligibility for the awarding and~~
28 ~~disbursement of payments.~~

29 ~~(e) Information sharing. A Commonwealth agency shall~~
30 ~~provide the department with all information necessary for the~~

1 ~~operation and maintenance of the initiative.~~

2 ~~(f) Prohibition. A Commonwealth agency may not award or~~
3 ~~issue payment to a recipient that is listed on the initiative's~~
4 ~~database unless the payment is determined by the secretary of~~
5 ~~the agency as being necessary and:~~

6 ~~(1) The award or payment is for services which cannot be~~
7 ~~provided or provided in a timely manner by another entity or~~
8 ~~recipient.~~

9 ~~(2) The award or payment is required as a condition of~~
10 ~~receiving Federal money for programs jointly funded with~~
11 ~~Federal and Commonwealth money.~~

12 ~~§ 3503. Award and payment.~~

13 ~~(a) Procedural review. A Commonwealth agency shall review~~
14 ~~procedures regarding the awarding and payment of money prior to~~
15 ~~the awarding or releasing of any payment to verify and determine~~
16 ~~eligibility of a recipient for payment or award.~~

17 ~~(b) Database review. In order to verify eligibility under~~
18 ~~this section for an award or payment, a Commonwealth agency must~~
19 ~~utilize the following databases:~~

20 ~~(1) Death certificates maintained by the Division of~~
21 ~~Vital Records of the Department of Health.~~

22 ~~(2) The Death Master File of the Social Security~~
23 ~~Administration.~~

24 ~~(3) The Debarment and Suspension List of the Department~~
25 ~~of General Services.~~

26 ~~(4) The Credit Alert System or Credit Alert Interactive~~
27 ~~Voice Response System under the United States Department of~~
28 ~~Housing and Urban Development.~~

29 ~~(5) The list of excluded individuals and entities under~~
30 ~~the Department of Human Services Medicare List.~~

1 ~~(6) The list of individuals or entities under the~~
2 ~~Department of Revenue who are delinquent in payments owed to~~
3 ~~the Commonwealth.~~

4 ~~(7) The central registry under 23 Pa.C.S. § 4376~~
5 ~~(relating to central registry).~~

6 ~~(8) Databases used by the Federal Government for the~~
7 ~~initiative administered by the United States Department of~~
8 ~~the Treasury.~~

9 Section 2. This act shall take effect in 365 days.

10 PART IV <--

11 IMPROPER PAYMENTS

12 CHAPTER.

13 35. DO-NOT-PAY INITIATIVE.

14 CHAPTER 35

15 DO-NOT-PAY INITIATIVE

16 SEC.

17 3501. DEFINITIONS.

18 3502. PARTICIPATION IN INITIATIVE.

19 § 3501. DEFINITIONS.

20 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
21 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
22 CONTEXT CLEARLY INDICATES OTHERWISE:

23 "COMMONWEALTH AGENCY." A DEPARTMENT, AGENCY OR COMMISSION OF
24 THE COMMONWEALTH UNDER THE POLICY SUPERVISION AND CONTROL OF THE
25 GOVERNOR.

26 "IMPROPER PAYMENT." A PAYMENT MADE BY A COMMONWEALTH AGENCY
27 THAT:

28 (1) EXCEEDS THE AMOUNT A RECIPIENT SHOULD HAVE RECEIVED
29 FROM A COMMONWEALTH AGENCY;

30 (2) IS LESS THAN THE AMOUNT A RECIPIENT SHOULD HAVE

1 RECEIVED FROM THE COMMONWEALTH;

2 (3) IS MADE TO A RECIPIENT WHO IS INELIGIBLE TO RECEIVE
3 THE PAYMENT FROM A PARTICULAR COMMONWEALTH PROGRAM;

4 (4) IS INELIGIBLE;

5 (5) IS DUPLICATIVE OR REDUNDANT;

6 (6) IS FOR A SERVICE WHICH WAS NEVER RECEIVED; OR

7 (7) IS FOR A SERVICE THAT DOES NOT ACCOUNT FOR OR WAS
8 NOT GIVEN ANY OF THE AVAILABLE CREDITS OR DISCOUNTS AVAILABLE
9 FOR THE SERVICE RENDERED.

10 "INITIATIVE." THE DO-NOT-PAY INITIATIVE ESTABLISHED UNDER
11 SECTION 5 OF THE IMPROPER PAYMENTS ELIMINATION AND RECOVERY
12 IMPROVEMENT ACT OF 2012 (PUBLIC LAW 112-248, 126 STAT. 2392).

13 "PAYMENT." MONEY EXPENDED BY THE COMMONWEALTH AS PART OF THE
14 OPERATING BUDGET FOR THE COMMONWEALTH.

15 "SECRETARY." THE SECRETARY OF THE BUDGET OF THE
16 COMMONWEALTH.

17 § 3502. PARTICIPATION IN INITIATIVE.

18 (A) PARTICIPATION.--A COMMONWEALTH AGENCY THAT MAKES
19 PAYMENTS BY EXPENDING FEDERAL FUNDS SHALL ENTER INTO A
20 MEMORANDUM OF UNDERSTANDING WITH THE UNITED STATES TREASURY
21 DEPARTMENT TO PARTICIPATE IN THE INITIATIVE. THE PARTICIPATION
22 IN THE INITIATIVE BY A COMMONWEALTH AGENCY SHALL INCLUDE ALL OF
23 THE FOLLOWING:

24 (1) THE USE OF THE INITIATIVE'S ONLINE INTERFACE TO
25 VERIFY THE ACCURACY AND INTEGRITY OF PAYMENTS ISSUED BY THE
26 COMMONWEALTH AGENCY.

27 (2) AN ANALYTICAL REVIEW OF THE COMMONWEALTH AGENCY'S
28 DATA THROUGH THE INITIATIVE TO IMPROVE THE DATA COLLECTED BY
29 THE COMMONWEALTH AGENCY AND THE INTEGRITY OF PAYMENTS MADE BY
30 THE COMMONWEALTH AGENCY.

1 (B) SCHEDULE.--THE SECRETARY SHALL ESTABLISH A SCHEDULE TO
2 ENSURE THAT EACH COMMONWEALTH AGENCY UNDER SUBSECTION (A) HAS
3 ENTERED INTO A MEMORANDUM OF UNDERSTANDING TO PARTICIPATE IN THE
4 INITIATIVE WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS
5 SECTION.

6 (C) ANNUAL REPORT.--A COMMONWEALTH AGENCY THAT PARTICIPATES
7 IN THE INITIATIVE SHALL PROVIDE AN ANNUAL REPORT ABOUT THE
8 COMMONWEALTH AGENCY'S PARTICIPATION IN THE INITIATIVE TO THE
9 FOLLOWING:

10 (1) THE SECRETARY.

11 (2) THE OFFICE OF STATE INSPECTOR GENERAL.

12 (3) THE DEPARTMENT OF AUDITOR GENERAL.

13 (4) THE MEMBERS OF THE GENERAL ASSEMBLY.

14 (5) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE.

15 (D) CONTENTS OF REPORT.--THE ANNUAL REPORT UNDER SUBSECTION
16 (C) SHALL INCLUDE ANALYTICAL DATA OBTAINED BY A COMMONWEALTH
17 AGENCY AS A RESULT OF PARTICIPATING IN THE INITIATIVE,
18 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

19 (1) THE TOTAL NUMBER OF IMPROPER PAYMENTS IDENTIFIED BY
20 THE COMMONWEALTH AGENCY AFTER PARTICIPATION IN THE
21 INITIATIVE.

22 (2) THE TOTAL NUMBER OF IMPROPER PAYMENTS PREVENTED BY
23 THE COMMONWEALTH AGENCY AS A RESULT OF PARTICIPATING IN THE
24 INITIATIVE.

25 (3) THE TOTAL AMOUNT OF IMPROPER PAYMENTS IDENTIFIED AND
26 PREVENTED BY THE COMMONWEALTH AGENCY AFTER PARTICIPATING IN
27 THE INITIATIVE.

28 (4) THE SAVINGS REALIZED BY THE COMMONWEALTH AS A RESULT
29 OF THE COMMONWEALTH AGENCY'S PARTICIPATION IN THE INITIATIVE.

30 (5) ANY WEAKNESS IN THE INTERNAL FINANCIAL CONTROLS OF

1 THE COMMONWEALTH AGENCY IDENTIFIED THROUGH PARTICIPATION IN
2 THE INITIATIVE.

3 (6) ANY CHANGES MADE TO PROGRAMS OPERATED BY THE
4 COMMONWEALTH AGENCY TO IMPROVE PAYMENT ACCURACY AND INTEGRITY
5 RESULTING FROM PARTICIPATION IN THE INITIATIVE.

6 (7) RECOMMENDATIONS TO IMPROVE THE COMMONWEALTH AGENCY'S
7 PAYMENT ACCURACY AND INTEGRITY, INCLUDING LEGISLATIVE OR
8 REGULATORY CHANGES REQUIRED TO PREVENT IMPROPER PAYMENTS AND
9 IMPROVE PAYMENT ACCURACY AND INTEGRITY.

10 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 90 DAYS.