

JAN 29 2015

A BILL FOR AN ACT

RELATING TO PHARMACY AUDITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 461, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§461- Pharmacy audit; procedures. (a) Notwithstanding
5 any other law to the contrary, when an audit of the records of a
6 pharmacy is conducted by an agency or any entity that represents
7 such agency, it shall be conducted in accordance with this
8 section.

9 (b) The agency or entity conducting the initial on-site
10 audit shall give the pharmacy notice at least one week prior to
11 conducting the initial on-site audit for each audit cycle.

12 (c) Any audit that involves clinical or professional
13 judgment shall be conducted by or in consultation with a
14 pharmacist.

15 (d) Any clerical or record-keeping error, including but
16 not limited to a typographical error, scrivener's error, or
17 computer error, regarding a required document or record shall



1 not in and of itself constitute fraud; provided that such claims
2 may be subject to recoupment. No such claim shall be subject to
3 criminal penalties without proof of intent to commit fraud. No
4 recoupment of the cost of drugs or medicinal supplies properly
5 dispensed shall be allowed if such error has occurred and been
6 resolved in accordance with subsection (e); provided that
7 recoupment shall be allowed to the extent that such error
8 resulted in an overpayment, underpayment, or improper dispensing
9 of drugs or medicinal supplies.

10 (e) A pharmacy shall be allowed at least thirty days
11 following the conclusion of an on-site audit or receipt of the
12 preliminary audit report to correct a clerical or record-keeping
13 error or produce documentation to address any discrepancy found
14 during an audit, including to secure and remit an appropriate
15 copy of the record from a hospital, physician, or other
16 authorized practitioner of the healing arts for drugs or
17 medicinal supplies written or transmitted by any means of
18 communication if the lack of such a record or an error in such a
19 record is identified in the course of an on-site audit or
20 noticed within the preliminary audit report.



1 (f) A pharmacy may use the records of a hospital,
2 physician, or other authorized practitioner of the healing arts
3 for drugs or medicinal supplies written or transmitted by any
4 means of communication for purposes of validating the pharmacy
5 record with respect to orders or refills of a legend or narcotic
6 drug.

7 (g) A finding of an overpayment or underpayment may be a
8 projection based on a number of patients served having a similar
9 diagnosis or on the number of similar orders or refills for
10 similar drugs; provided that recoupment of claims shall be based
11 on the actual overpayment or underpayment unless the projection
12 for overpayment or underpayment is part of a settlement as
13 agreed to by the pharmacy. Notwithstanding any other provision
14 in this section, the agency or entity conducting the audit shall
15 not use the accounting practice of extrapolation in calculating
16 recoupments or penalties for audits.

17 (h) Each pharmacy shall be audited under the same
18 standards and parameters as other similarly situated pharmacies
19 audited by the agency or entity.



1 (i) A pharmacy shall be allowed at least thirty days
2 following the receipt of the preliminary audit report to produce
3 documentation to address any discrepancy found during an audit.

4 (j) The period covered by an audit pursuant to this
5 section shall not exceed two years from the date the claim was
6 submitted to or adjudicated by an agency or entity.

7 (k) Any audit shall not be initiated or scheduled during
8 the first seven calendar days of any month due to the high
9 volume of prescriptions filled during that time unless otherwise
10 consented to by the pharmacy.

11 (l) The preliminary audit report shall be delivered to the
12 pharmacy within one hundred twenty days after the conclusion of
13 the audit. A final audit report shall be delivered to the
14 pharmacy within six months after receipt of the preliminary
15 audit report or final appeal, as provided in subsection (n),
16 whichever is later.

17 (m) The audit criteria set forth in this section shall
18 apply only to audits of claims submitted for payment after
19 July 1, 2015.



1 (n) Recoupments of any disputed funds shall only occur
2 after final internal disposition of the audit, including the
3 appeals process as set forth in subsection (o).

4 (o) Each agency or entity conducting an audit under this
5 section shall establish an appeals process under which a
6 pharmacy shall have at least thirty days from the delivery of
7 the preliminary audit report to appeal an unfavorable
8 preliminary audit report to the entity. If, following the
9 appeal, the agency or entity finds that an unfavorable audit
10 report or any portion thereof is unsubstantiated, the agency or
11 entity shall dismiss the audit report or portion thereof without
12 the necessity of any further proceedings.

13 (p) Each agency or entity conducting an audit shall
14 provide a copy of the final audit report, after completion of
15 any review process, to the respective agency that the entity
16 represents, if applicable.

17 (q) This section shall not apply to any investigative
18 audit that involves fraud, wilful misrepresentation, or abuse,
19 including without limitation investigative audits or any other
20 statutory provision that authorizes investigations relating to
21 insurance fraud.



S.B. NO. 1244

Report Title:

Pharmacy; Audit; Procedures

Description:

Establishes procedures for audits of pharmacies conducted by a health care provider, insurance company, third-party payor, department of health, or any entity that represents such companies, groups, or department.

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