
A BILL FOR AN ACT

RELATING TO PHARMACY AUDITS.

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

1 SECTION 1. Chapter 431R, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§431R- Pharmacy on-site audit; procedures. (a)
5 Notwithstanding any other law to the contrary, when an on-site
6 audit of the records of a pharmacy related to claims submitted
7 under a prescription drug benefit plan is conducted by an agency
8 or any entity that represents such agency, it shall be conducted
9 in accordance with this section.

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

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

16 (d) Any clerical or record-keeping error, including but
17 not limited to a typographical error, scrivener's error, or
18 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 audit or receipt of the
12 preliminary audit findings to correct a clerical or record-
13 keeping error or produce documentation to address any
14 discrepancy found during an audit, including to secure and remit
15 an appropriate copy of the record from a hospital, physician, or
16 other authorized practitioner of the healing arts for drugs or
17 medicinal supplies written or transmitted by any means of
18 communication for the purposes of validating the pharmacy record
19 with respect to orders or refills of a legend or narcotic drug
20 or if the lack of such a record or an error in such a record is



1 identified in the course of an on-site audit or noticed within
2 the preliminary audit findings.

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

13 (g) Each pharmacy shall be audited under the same
14 standards and parameters as other similarly situated pharmacies
15 audited by the agency or entity.

16 (h) A pharmacy shall be allowed at least fourteen days
17 following the receipt of the preliminary audit findings to
18 produce documentation to address any discrepancy found during an
19 audit unless such shorter time is required for the agency to
20 respond to a governmental audit request.



1 (i) The period covered by an audit pursuant to this
2 section shall not exceed two years from the date the claim was
3 submitted to or adjudicated by an agency or entity.

4 (j) The preliminary audit findings shall be delivered to
5 the pharmacy within one hundred twenty days after the conclusion
6 of the audit. Final audit findings shall be delivered to the
7 pharmacy within six months after receipt of the preliminary
8 audit findings or resolution of a final appeal, as provided in
9 subsection (m), whichever is later.

10 (k) The audit criteria set forth in this section shall
11 apply only to audits of claims submitted for payment after
12 July 1, 2015.

13 (l) Recoupments of any disputed funds shall only occur
14 after final internal disposition of the audit, including the
15 appeals process as set forth in subsection (m). The period
16 covered by such a recoupment shall not exceed eighteen months.

17 (m) Each agency or entity conducting an audit under this
18 section shall establish an appeals process under which a
19 pharmacy shall have at least thirty days from the delivery of
20 the preliminary audit findings to appeal such finding. If,
21 following the appeal, the agency or entity finds that



1 unfavorable audit findings or any portion thereof is
2 unsubstantiated, the agency or entity shall reverse or issue a
3 correction of the findings.

4 (n) Each agency or entity conducting an audit shall
5 provide a copy of the final audit findings, after completion of
6 any review process, to the respective agency that the entity
7 represents, if requested.

8 (o) This section shall not apply to any investigative
9 audit that involves fraud, wilful misrepresentation, wilful
10 misconduct, abuse or health or safety issues, including without
11 limitation investigative audits or any other statutory provision
12 that authorizes investigations relating to insurance fraud.

13 (p) For the purposes of this section:

14 "Agency" means a health care provider, insurance company,
15 third-party payor, sickness insurance provider under part I of
16 article 10A of chapter 431, mutual benefit society under article
17 I of chapter 432, dental service corporation under chapter 423,
18 and health maintenance organization under chapter 432D.

19 "Entity" means an individual or organization that
20 represents an agency."

21 SECTION 2. New statutory material is underscored.



1 SECTION 3. This Act shall take effect on July 1, 2015.

2



Report Title:

Pharmacy; Audit; Procedures

Description:

Establishes procedures for on-site audits of pharmacies conducted by a health care provider, insurance company, third-party payor, sickness insurance provider, mutual benefit society, dental service corporation, health maintenance organization, or any entity that represents such companies or groups. (SD1)

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