

Regular Session, 2014

HOUSE BILL NO. 62

BY REPRESENTATIVE PUGH

PHARMACISTS: Provides relative to pharmacy record audits

1 AN ACT

2 To amend and reenact R.S. 22:1856.1(A), (B)(introductory paragraph) and (3)(a), (C)(3),
3 (D), and (E) and to enact R.S. 22:1856.1(B)(10) and (11), relative to pharmacy
4 record audits; to provide for standards and requirements concerning pharmacy record
5 audit procedures; to provide for conditions under which recoupment of certain
6 reimbursements to pharmacies may occur; to make technical changes; and to provide
7 for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:1856.1(A), (B)(introductory paragraph) and (3)(a), (C)(3), (D),
10 and (E) are hereby amended and reenacted and R.S. 22:1856.1(B)(10) and (11) are hereby
11 enacted to read as follows:

12 §1856.1. Pharmacy record audits; recoupment; appeals

13 A. As used in this Section, "entity" means a managed care company,
14 insurance company, third-party payor, or the representative of the managed care
15 company including a pharmacy benefit ~~managers~~ manager, insurance company, or
16 third-party payor.

17 B. Notwithstanding any other provision of law to the contrary, when an ~~on-~~
18 site onsite audit of the records of a pharmacy is conducted by an entity, the audit
19 shall be conducted in accordance with the following criteria:

20 * * *

1 D.(1) No pharmacy shall be subject to recoupment of any portion of the
2 reimbursement for the dispensed product of a prescription unless one or more of the
3 following has occurred:

4 (a) Fraudulent activity or other intentional and willful misrepresentation by
5 the pharmacy as evidenced by a review of claims data or statements, physical review,
6 or any other investigative method.

7 (b) The pharmacy has engaged in dispensing in excess of the benefit design,
8 as established by the plan sponsor.

9 (c) The pharmacy has not filled prescriptions in accordance with the
10 prescriber's order.

11 (d) Actual overpayment to the pharmacy.

12 (e) The pharmacy received reimbursement based on incorrect information
13 it submitted on the initial claim.

14 (2) Recoupment of claims shall be based on the actual financial harm to the
15 entity or on the actual overpayment or underpayment. A finding of an overpayment
16 that is the result of dispensing in excess of the benefit design, as established by the
17 plan sponsor, shall be calculated as the difference between what was dispensed in
18 accordance with the prescriber's orders and the dispensing requirements as set forth
19 by the benefit design. Calculations of overpayments shall not include dispensing
20 fees unless one or more of the following conditions ~~is present~~ has been satisfied:

21 ~~(1)~~ (a) A prescription was not actually dispensed.

22 ~~(2)~~ (b) The prescriber denied authorization.

23 ~~(3)~~ (c) The prescription dispensed was a medication error by the pharmacy.

24 ~~(4)~~ (d) The identified overpayment is based solely on an extra dispensing fee.

25 ~~(5)~~ (e) The pharmacy was noncompliant with program guidelines.

26 ~~(6)~~ (f) There was insufficient documentation.

27 E.(1) Each entity conducting an audit shall establish an appeal process under
28 which a pharmacy may appeal an unfavorable preliminary audit report to the entity.

an initial onsite audit of a pharmacy on behalf of an entity, the vendor or subcontractor is subject to the same requirement for providing notice to the pharmacy as is the entity.

Proposed law adds requirement for a vendor or subcontractor of an entity, if conducting a pharmacy records audit on behalf of an entity, to identify to the pharmacy the entity on whose behalf the audit is being conducted without necessity of this information being requested by the pharmacy.

Proposed law adds requirement that a pharmacy records audit be based only on information obtained by the entity conducting the audit and not based on any audit report or other information gained from an audit conducted by a different auditing entity. Provides that nothing in proposed law shall prohibit an auditing entity from using an earlier audit report prepared by that auditing entity for the same pharmacy. Further provides that except as required by present law or federal law, an entity conducting an audit may have access to a pharmacy's previous audit report only if the previous report was prepared by that entity.

Proposed law stipulates that no pharmacy shall be subject to recoupment of any portion of the reimbursement for the dispensed product of a prescription unless one or more of the following has occurred:

- (1) Fraudulent activity or other intentional and willful misrepresentation by the pharmacy as evidenced by a review of claims data or statements, physical review, or any other investigative method.
- (2) The pharmacy has engaged in dispensing in excess of the benefit design, as established by the plan sponsor.
- (3) The pharmacy has not filled prescriptions in accordance with the prescriber's order.
- (4) Actual overpayment to the pharmacy.
- (5) The pharmacy received reimbursement based on incorrect information it submitted on the initial claim.

Proposed law makes technical changes to present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1856.1(A), (B)(intro. para.) and (3)(a), (C)(3), (D), and (E); Adds R.S. 22:1856.1(B)(10) and (11))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. In the enumerated list of conditions that subject a pharmacy to potential recoupment of reimbursement for the dispensed product of a prescription, added the condition of the pharmacy receiving reimbursement based on incorrect information that it submitted on the initial claim.
2. Made technical change.