

Regular Session, 2014

HOUSE BILL NO. 62

BY REPRESENTATIVES PUGH AND BARROW

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 * * *

21 (3)(a) The entity ~~conducting~~ or any vendor or subcontractor of the entity
22 which conducts the initial ~~on-site~~ onsite audit shall give the pharmacy notice at least
23 two weeks before conducting the initial ~~on-site~~ onsite audit for each audit cycle.

24 * * *

1 (a) The pharmacy has engaged in fraudulent activity or other intentional and
 2 willful misrepresentation, as evidenced by a review of claims data or statements,
 3 physical review, or any other investigative method.

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

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

8 (d) The pharmacy has received an actual overpayment.

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

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

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

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

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

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

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

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

24 ~~(1)~~ (2) If, following an appeal, the entity finds that an unfavorable audit
 25 report or any portion of an unfavorable audit report is unsubstantiated, the entity
 26 shall dismiss the audit report or the unsubstantiated portion of the audit report
 27 without any further proceedings.

