

By the Committee on Health, Aging and Long-Term Care; and
Senator Peaden

317-2288-02

1 A bill to be entitled
2 An act relating to Medicaid audits of
3 pharmacies; providing requirements for an audit
4 conducted of the Medicaid-related records of a
5 pharmacy licensed under ch. 465, F.S.;
6 requiring that a pharmacist be provided prior
7 notice of the audit; providing that a
8 pharmacist is not subject to criminal penalties
9 without proof of intent to commit fraud;
10 providing that an underpayment or overpayment
11 may not be based on certain projections;
12 requiring that all pharmacies be audited under
13 the same standards; limiting the period that
14 may be covered by an audit; requiring that the
15 Agency for Health Care Administration establish
16 a procedure for conducting a preliminary
17 review; authorizing the agency to establish
18 peer-review panels; requiring that the agency
19 dismiss an unfavorable audit report if it or a
20 review panel finds that the pharmacist did not
21 commit intentional fraud; exempting certain
22 audits conducted by the Medicaid Fraud Control
23 Unit of the Department of Legal Affairs;
24 providing an effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Medicaid audits of pharmacies.--
29 (1) Notwithstanding any other law, an audit of the
30 Medicaid-related records of a pharmacy licensed under chapter
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1 465, Florida Statutes, must be conducted as provided in this
2 section.

3 (a) The agency conducting the audit must give the
4 pharmacist at least 2 weeks' prior notice of the audit.

5 (b) An audit must be conducted by a pharmacist
6 licensed in this state.

7 (c) Any clerical or recordkeeping error, such as a
8 typographical error, scrivener's error, or computer error
9 regarding a document or record required under the Medicaid
10 program does not constitute a willful violation and is not
11 subject to criminal penalties without proof of intent to
12 commit fraud.

13 (d) A pharmacist may use the physician's record or
14 other order for drugs or medicinal supplies written or
15 transmitted by any means of communication for purposes of
16 validating the pharmacy record with respect to orders or
17 refills of a legend or narcotic drug.

18 (e) A finding of an overpayment or underpayment must
19 be based on the actual overpayment or underpayment and may not
20 be a projection based on the number of patients served having
21 a similar diagnosis or on the number of similar orders or
22 refills for similar drugs.

23 (f) Each pharmacy, regardless of whether the pharmacy
24 is a community pharmacy, an institutional pharmacy, or a
25 special pharmacy, shall be audited under the same standards
26 and parameters.

27 (g) A pharmacist must be allowed at least 10 days in
28 which to produce documentation to address any discrepancy
29 found during an audit.

30 (h) The period covered by an audit may not exceed 1
31 calendar year.

1 (i) An audit may not be scheduled during the first 5
2 days of any month due to the high volume of prescriptions
3 filled during that time.

4 (j) The audit report must be delivered to the
5 pharmacist within 90 days after conclusion of the audit.

6 (2) The Agency for Health Care Administration shall
7 establish a process under which a pharmacist may obtain a
8 preliminary review of an audit report and may appeal an
9 unfavorable audit report without the necessity of obtaining
10 legal counsel. The preliminary review and appeal may be
11 conducted by an ad hoc peer-review panel, appointed by the
12 agency, which consists of pharmacists who maintain an active
13 practice. If, following the preliminary review, the agency or
14 review panel finds that an unfavorable audit report lacks
15 merit and finds that the pharmacist did not commit intentional
16 fraud, the agency shall dismiss the audit report without the
17 necessity of any further proceedings.

18 (3) This section does not apply to investigative
19 audits conducted by the Medicaid Fraud Control Unit of the
20 Department of Legal Affairs.

21 Section 2. This act shall take effect upon becoming a
22 law.

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24 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
25 COMMITTEE SUBSTITUTE FOR
26 Senate Bill 2368

27 The Committee Substitute adds a provision stating that the
28 requirements of the bill do not apply to investigative audits
29 conducted by the Medicaid Fraud Control Unit of the Department
30 of Legal Affairs.
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