



HB 1281

2003

1 A bill to be entitled

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

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

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24 Section 1. Medicaid audits of pharmacies.--

25 (1) Notwithstanding any other law, an audit of the
26 Medicaid-related records of a pharmacy licensed under chapter
27 465, Florida Statutes, must be conducted as provided in this
28 section.

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



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

33 (c) Any clerical or recordkeeping error, such as a
34 typographical error, scrivener's error, or computer error
35 regarding a document or record required under the Medicaid
36 program does not constitute a willful violation and is not
37 subject to criminal penalties without proof of intent to commit
38 fraud.

39 (d) A pharmacist may use the physician's record or other
40 order for drugs or medicinal supplies written or transmitted by
41 any means of communication for purposes of validating the
42 pharmacy record with respect to orders or refills of a legend or
43 narcotic drug.

44 (e) A finding of an overpayment or underpayment must be
45 based on the actual overpayment or underpayment and may not be a
46 projection based on the number of patients served having a
47 similar diagnosis or on the number of similar orders or refills
48 for similar drugs.

49 (f) Each pharmacy, regardless of whether the pharmacy is a
50 community pharmacy, an institutional pharmacy, or a special
51 pharmacy, shall be audited under the same standards and
52 parameters.

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

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

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



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

63 (2) The Agency for Health Care Administration shall
64 establish a process under which a pharmacist may obtain a
65 preliminary review of an audit report and may appeal an
66 unfavorable audit report without the necessity of obtaining
67 legal counsel. The preliminary review and appeal may be
68 conducted by an ad hoc peer-review panel, appointed by the
69 agency, which consists of pharmacists who maintain an active
70 practice. If, following the preliminary review, the agency or
71 review panel finds that an unfavorable audit report lacks merit
72 and finds that the pharmacist did not commit intentional fraud,
73 the agency shall dismiss the audit report without the necessity
74 of any further proceedings.

75 (3) This section does not apply to investigative audits
76 conducted by the Medicaid Fraud Control Unit of the Department
77 of Legal Affairs.

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