

By the Committees on Appropriations; Judiciary; and Regulated Industries; and Senators Bean and Sobel

576-04218-14

2014702c3

1 A bill to be entitled
2 An act relating to pharmacy audits; creating s.
3 465.1885, F.S.; enumerating the rights of pharmacies
4 relating to audits of pharmaceutical services which
5 are conducted by certain entities; providing a list of
6 audits not subject to such rights; providing an
7 exemption from the right to notice of an on-site audit
8 under certain circumstances; providing an effective
9 date.

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

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13 Section 1. Section 465.1885, Florida Statutes, is created
14 to read:

15 465.1885 Pharmacy audits; rights.-

16 (1) If an audit of the records of a pharmacy licensed under
17 this chapter is conducted directly or indirectly by a managed
18 care company, an insurance company, a third-party payor, a
19 pharmacy benefit manager, or an entity that represents
20 responsible parties such as companies or groups, referred to as
21 an "entity" in this section, the pharmacy has the following
22 rights:

23 (a) To be notified at least 7 calendar days before the
24 initial on-site audit for each audit cycle.

25 (b) To have the on-site audit scheduled after the first 3
26 calendar days of a month unless the pharmacist consents
27 otherwise.

28 (c) To have the audit period limited to 24 months after the
29 date a claim is submitted to or adjudicated by the entity.

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30 (d) To have an audit that requires clinical or professional
31 judgment conducted by or in consultation with a pharmacist.

32 (e) To use the written and verifiable records of a
33 hospital, physician, or other authorized practitioner, which are
34 transmitted by any means of communication, to validate the
35 pharmacy records in accordance with state and federal law.

36 (f) To be reimbursed for a claim that was retroactively
37 denied for a clerical error, typographical error, scrivener's
38 error, or computer error if the prescription was properly and
39 correctly dispensed, unless a pattern of such errors exists,
40 fraudulent billing is alleged, or the error results in actual
41 financial loss to the entity.

42 (g) To receive the preliminary audit report within 120 days
43 after the conclusion of the audit.

44 (h) To produce documentation to address a discrepancy or
45 audit finding within 10 business days after the preliminary
46 audit report is delivered to the pharmacy.

47 (i) To receive the final audit report within 6 months after
48 receiving the preliminary audit report.

49 (j) To have recoupment or penalties based on actual
50 overpayments and not according to the accounting practice of
51 extrapolation.

52 (2) The rights contained in this section do not apply to:

53 (a) Audits in which suspected fraudulent activity or other
54 intentional or willful misrepresentation is evidenced by a
55 physical review, review of claims data or statements, or other
56 investigative methods;

57 (b) Audits of claims paid for by federally funded programs;
58 or

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59 (c) Concurrent reviews or desk audits that occur within 3
60 business days of transmission of a claim and where no chargeback
61 or recoupment is demanded.

62 (3) An entity that audits a pharmacy located within a
63 Health Care Fraud Prevention and Enforcement Action Team (HEAT)
64 Task Force area designated by the United States Department of
65 Health and Human Services and the United States Department of
66 Justice may dispense with the notice requirements of paragraph
67 (1) (a) if such pharmacy has been a member of a credentialed
68 provider network for less than 12 months.

69 Section 2. This act shall take effect October 1, 2014.