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CS FOR HOUSE BILL NO. 259(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES MUÑOZ AND PEGGY WILSON, Olson

A BILL.

FOR AN ACT ENTITLED

1 "An Act establishing procedures and guidelines for auditing pharmacy records; and
2 providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

INTENT. This Act is intended to establish standards for an audit of pharmacy records carried out by an insurer, a managed care company, a third-party payor, a pharmacy benefits manager, a health plan administered by the state, or any entity that represents such companies.

9 * Sec. 2. AS 08.80 is amended by adding a new section to read:

10 **Sec. 08.80.477. Pharmacy audits.** (a) When an audit of the records of a
11 pharmacy licensed in this state is conducted by an insurer, managed care company,
12 hospital or medical service corporation, third-party payor, or pharmacy benefits
13 manager,

14 (1) for each audit cycle, the auditor shall provide the pharmacy or

pharmacist with notice of the audit at least two weeks before conducting the initial on-site audit;

(2) unless the pharmacy and the auditor agree otherwise, the audit may not be scheduled to occur during the first seven business days of a month because of the high volume of prescriptions that are filled during that time;

(3) an auditor may not audit more than 75 prescriptions during a single audit unless an error rate of 10 percent or more is found in the performance of an audit;

(4) the audit of a claim shall occur within two years after the date the claim was submitted unless a longer time period is specified in a contract between the pharmacist and the insurer, managed care company, hospital or medical service corporation, third-party payor, or pharmacy benefits manager;

(5) if the audit involves clinical or professional judgment, the audit must be conducted by or in consultation with a pharmacist licensed in this or another state;

(6) each pharmacy shall be audited using the same standards and parameters as other similarly situated pharmacies;

(7) an auditor may not use the accounting practice of extrapolation to establish an overpayment or underpayment or for calculating recoupment or penalties;

(8) a finding of overpayment or underpayment by the auditor must be based on an actual overpayment or underpayment and may not be based on a projection based on the number of patients served who have a similar diagnosis or on the number of similar orders or refills for similar drugs;

(9) an auditor may not assess a charge-back, recoupment, or other penalty against a pharmacy solely because a prescription is mailed or delivered at the request of a patient as part of a routine business practice of the pharmacy;

(10) the preliminary audit report must be delivered to the pharmacy within 60 days after the completion of the audit;

(11) a pharmacy shall be allowed at least 30 days following receipt of a preliminary audit report to produce documentation to address a discrepancy found during the audit; a pharmacy may use any record, including the records of a hospital,

1 physician, or other health care provider, or other written or electronic record to
2 validate a pharmacy record;

3 (12) the insurer, managed care company, hospital or medical service
4 corporation, third-party payor, or pharmacy benefits manager shall establish a written
5 appeal process by which a pharmacy may appeal an unfavorable preliminary or final
6 audit report;

7 (13) the final audit report must be delivered to the pharmacy within 90
8 days after receipt of the preliminary audit report or final appeal;

9 (14) the auditor may not receive compensation based on the percentage
10 of the amount recovered by the auditor;

11 (15) the auditor shall provide a copy of the final report to a health
12 benefit plan sponsor affected by the audit.

13 (b) This section does not apply to

14 (1) a criminal investigation; or

15 (2) an investigation or audit by a governmental agency, including state
16 Medicaid programs.

17 (c) In this section, "health benefit plan" has the meaning given in
18 AS 21.54.500.

19 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 APPLICABILITY. This Act applies to pharmacy audits conducted after the effective
22 date of this Act.

23 * **Sec. 4.** This Act takes effect July 1, 2013.