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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:

6 **INTENT.** This Act is intended to establish standards for an audit of pharmacy records
7 carried out by an insurer, a managed care company, a third-party payor, a pharmacy benefits
8 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

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

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

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

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

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

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

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

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

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

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

29 (11) a pharmacy shall be allowed at least 30 days following receipt of
30 a preliminary audit report to produce documentation to address a discrepancy found
31 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 uncoded 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.