

## Concerns with HB259 – Pharmacy Audits

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Most of the provisions we have no problem with but here are some that raise some questions:

- 1) Page 2, lines 6 & 7. **Disagree.** The audit period is specified in the pharmacy contract. This could require all payers to amend their agreements effective immediately. This does not provide for timely and proper implementation. Payer contracts are typically of longer duration. Medicare requires longer retention of records as well.
- 2) Page 2, lines 8 & 9. **Disagree.** Having a requirement that a clinical judgment must be conducted in consultation with a person licensed in the state would appear to delay all audits. Many pharmacists could refuse, or not be able to participate in an audit. We can understand that an audit should be conducted consistent with the laws of the State of Alaska, but clinical expertise is a function of a pharmacist's training, schooling, advanced degrees, fellowships, residency and other academic pursuits and affiliations.
- 3) Page 2, lines 12 & 13. **Disagree in current form.** Clerical error language is overly broad. For example, an adjustment to a quantity of prescription medication that results in a change in reimbursement that causes the payer to pay more than the prescription originally allowed or reduces the supply of medication a member could have received (if the medication was available) is not a clerical error.
- 4) Page 2, lines 14 & 15. **Disagree in current form.** If a company employs one or more auditors as employees, and one auditor should have the right to share a previous audit within the same company.
- 5) Page 2, line 24, **Disagree.** Dispensing fee are part of the normal contractual reimbursement formula. Any claims proved fraudulent, should be recouped in total to the benefit of the payer. Dispensing fees are part of the definition of negotiated price for Medicare Part D, 42CFR 423.100
- 6) Page 3, lines 7 - 9, **Disagree.** Dispensing fees should not be excluded (see above)
- 7) Page 3, lines 21 & 22, **Disagree if the effective date is immediate.** The proposed law requires widespread contractual efforts, negotiations, amendments and implementation issues to be in compliance with this proposed law. Reasonable time is required to achieve and implement such requirements.