

HOUSE BILL NO. 259

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MUÑOZ AND PEGGY WILSON

Introduced: 1/17/12

Referred: Labor and Commerce, Finance

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:

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) the audit of a claim shall occur within two years after the date the
7 claim was submitted;

8 (4) if the audit involves clinical or professional judgment, the audit
9 must be conducted by or in consultation with a pharmacist licensed in the state;

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

12 (6) a clerical error, record-keeping error, typographical error, or
13 scrivener's error may not constitute fraud;

14 (7) an auditor conducting an audit may only have access to previous
15 audit reports prepared by the auditor for the particular pharmacy being audited;

16 (8) an auditor may only provide information to the person requesting
17 the audit and the pharmacy being audited;

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

20 (10) 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 (11) calculations of overpayments may not include dispensing fees;

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

27 (13) a pharmacy shall be allowed at least 30 days following receipt of
28 a preliminary audit report to produce documentation to address a discrepancy found
29 during the audit; a pharmacy may use any record, including the records of a hospital,
30 physician, or other health care provider, or other written or electronic record to
31 validate a pharmacy record;

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

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

(16) a chargeback, recoupment, or other penalty may not be assessed until the appeal process has been exhausted and the final report issued and may not include charges for dispensing fees;

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

(18) interest may not accrue during the audit period;

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

(b) This section does not apply to a criminal investigation or to an investigation by a governmental agency.

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

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

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

* **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).