

HOUSE BILL NO. 259

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MUÑOZ AND PEGGY WILSON, Olson

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:

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) 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;

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

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

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

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

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

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

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

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 immediately under AS 01.10.070(c).