



Summary of Pharmacy Records Audit Bill

Public Law 7-2009

HB 1292 was passed by the General Assembly and signed by the Governor earlier this year. The bill creates a set of standards for audits that are performed in pharmacies by third party payers and their contractors. There are several important parts of the bill to consider.

It requires that the contract under which the audit will be performed contain a description of the procedures to be used, and a written notice to the pharmacy at least two weeks prior to the date of the proposed audit. Auditors are not allowed to interfere with the delivery of pharmacy services while they are performing the audit and should make an effort to avoid disruptions in the workplace.

Any time that an audit requires the use of clinical judgment, it must be done by or in conjunction with a licensed pharmacist. If a pharmacy has written documentation from a physician or other health care practitioner that relates to a prescription, it must be considered. Processes and procedures must be consistent from pharmacy to pharmacy when the same auditor conducts audits.

The period covered by the audit must not exceed 24 months after the date on which the claim that is the subject of the audit was submitted to or adjudicated by a third party, and the pharmacy must be allowed to resubmit disputed claims electronically. However, the 24-month period does not apply to Medicaid audits conducted pursuant to federal requirements.

Onsite audits may not be scheduled during the first five days of the month, unless the pharmacy has voluntarily agreed to this. Consent to this cannot be mandated by a contract. Payments to the onsite auditor may not be based on a percentage of any amounts recovered.

After the audit is completed, the auditor must deliver a preliminary report within 90 days. Included with the preliminary report there must be a written procedure explaining how to appeal a finding contained in the audit. A final report must be delivered to the pharmacy not later than 120 days after the preliminary report is received, or if an appeal is filed, 120 days after a final appeal determination has been made.

The auditor and a pharmacist who participated in the audit must sign the audit report. A clerical error in a document that is necessary to the audit does not constitute fraud without proof of intent to commit fraud. A clerical error that results in an inappropriate payment of a claim may result in recoupment of the inappropriately made payment.

Audit findings of over or underpayments must be based on an actual payment and not be based on a projection of similar patients in the pharmacy with similar prescriptions or refills. A final audit report must be distributed before any recoupment of funds may be made based on the audit. Except for Medicaid audits, interest on recouped funds does not accrued during the audit period. Over or under payments may not be calculated using extrapolation methods.

The law does not apply to audits that are being conducted to determine if fraud, willful misrepresentation or alleged serious abuse has occurred.

The law takes effect on July 1 2009, and applies to audits that are reviewing pharmacy services that are provided after June 30, 2009.

You can get a copy of the bill by going to the Indiana General Assembly website at the following address:
<http://www.in.gov/legislative/bills/2009/PDF/HE/HE1292.1.pdf>