

Committee Substitute for
Committee Substitute for Senate Bill No. 1428

An act relating to Medicaid audits of pharmacies; providing requirements for an audit conducted of the Medicaid-related records of a pharmacy licensed under ch. 465, F.S.; requiring that a pharmacist be provided prior notice of the audit; providing that a pharmacist is not subject to criminal penalties without proof of intent to commit fraud; providing that an underpayment or overpayment may not be based on certain projections; requiring that all pharmacies be audited under the same standards; limiting the period that may be covered by an audit; requiring that the Agency for Health Care Administration establish a procedure for conducting a preliminary review; authorizing the agency to establish peer-review panels; requiring that the agency dismiss an unfavorable audit report if it or a review panel finds that the pharmacist did not commit intentional fraud; exempting certain audits conducted by the Medicaid Fraud Control Unit of the Department of Legal Affairs; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Medicaid audits of pharmacies.—

(1) Notwithstanding any other law, when an audit of the Medicaid-related records of a pharmacy licensed under chapter 465, Florida Statutes, is conducted, such audit must be conducted as provided in this section.

(a) The agency conducting the audit must give the pharmacist at least 1 weeks' prior notice of the audit.

(b) An audit must be conducted by a pharmacist licensed in this state.

(c) Any clerical or recordkeeping error, such as a typographical error, scrivener's error, or computer error regarding a document or record required under the Medicaid program does not constitute a willful violation and is not subject to criminal penalties without proof of intent to commit fraud.

(d) A pharmacist may use the physician's record or other order for drugs or medicinal supplies written or transmitted by any means of communication for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug.

(e) A finding of an overpayment or underpayment must be based on the actual overpayment or underpayment and may not be a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs.

(f) Each pharmacy shall be audited under the same standards and parameters.

(g) A pharmacist must be allowed at least 10 days in which to produce documentation to address any discrepancy found during an audit.

(h) The period covered by an audit may not exceed 1 calendar year.

(i) An audit may not be scheduled during the first 5 days of any month due to the high volume of prescriptions filled during that time.

(j) The audit report must be delivered to the pharmacist within 90 days after conclusion of the audit. A final audit report shall be delivered to the pharmacist within 6 months after receipt of the preliminary audit report or final appeal, as provided for in subsection (2), whichever is later.

(2) The Agency for Health Care Administration shall establish a process under which a pharmacist may obtain a preliminary review of an audit report and may appeal an unfavorable audit report without the necessity of obtaining legal counsel. The preliminary review and appeal may be conducted by an ad hoc peer-review panel, appointed by the agency, which consists of pharmacists who maintain an active practice. If, following the preliminary review, the agency or review panel finds that an unfavorable audit report is unsubstantiated, the agency shall dismiss the audit report without the necessity of any further proceedings.

(3) This section does not apply to investigative audits conducted by the Medicaid Fraud Control Unit of the Department of Legal Affairs.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor July 11, 2003.

Filed in Office Secretary of State July 11, 2003.