

CHAPTER 2014-85

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 702

An act relating to pharmacy audits; creating s. 465.1885, F.S.; enumerating the rights of pharmacies relating to audits of pharmaceutical services which are conducted by certain entities; providing a list of audits not subject to such rights; providing an exemption from the right to notice of an on-site audit under certain circumstances; providing an effective date.

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

Section 1. Section 465.1885, Florida Statutes, is created to read:

465.1885 Pharmacy audits; rights.—

(1) If an audit of the records of a pharmacy licensed under this chapter is conducted directly or indirectly by a managed care company, an insurance company, a third-party payor, a pharmacy benefit manager, or an entity that represents responsible parties such as companies or groups, referred to as an “entity” in this section, the pharmacy has the following rights:

(a) To be notified at least 7 calendar days before the initial on-site audit for each audit cycle.

(b) To have the on-site audit scheduled after the first 3 calendar days of a month unless the pharmacist consents otherwise.

(c) To have the audit period limited to 24 months after the date a claim is submitted to or adjudicated by the entity.

(d) To have an audit that requires clinical or professional judgment conducted by or in consultation with a pharmacist.

(e) To use the written and verifiable records of a hospital, physician, or other authorized practitioner, which are transmitted by any means of communication, to validate the pharmacy records in accordance with state and federal law.

(f) To be reimbursed for a claim that was retroactively denied for a clerical error, typographical error, scrivener’s error, or computer error if the prescription was properly and correctly dispensed, unless a pattern of such errors exists, fraudulent billing is alleged, or the error results in actual financial loss to the entity.

(g) To receive the preliminary audit report within 120 days after the conclusion of the audit.

(h) To produce documentation to address a discrepancy or audit finding within 10 business days after the preliminary audit report is delivered to the pharmacy.

(i) To receive the final audit report within 6 months after receiving the preliminary audit report.

(j) To have recoupment or penalties based on actual overpayments and not according to the accounting practice of extrapolation.

(2) The rights contained in this section do not apply to:

(a) Audits in which suspected fraudulent activity or other intentional or willful misrepresentation is evidenced by a physical review, review of claims data or statements, or other investigative methods;

(b) Audits of claims paid for by federally funded programs; or

(c) Concurrent reviews or desk audits that occur within 3 business days of transmission of a claim and where no chargeback or recoupment is demanded.

(3) An entity that audits a pharmacy located within a Health Care Fraud Prevention and Enforcement Action Team (HEAT) Task Force area designated by the United States Department of Health and Human Services and the United States Department of Justice may dispense with the notice requirements of paragraph (1)(a) if such pharmacy has been a member of a credentialed provider network for less than 12 months.

Section 2. This act shall take effect October 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.