
**Health Care & Wellness
Committee**

HB 1970

Brief Description: Concerning the department of social and health services' technical assistance and audit program for pharmacy payments.

Sponsors: Representatives Lantz, Linville, Seaquist, Armstrong, Morris, Curtis, Kessler, Moeller, Walsh, Hinkle, Morrell, Ericks, Condotta, Chandler, Conway, Wood, Anderson, Williams and Kenney.

Brief Summary of Bill

- Requires the Department of Social and Health Services to establish a technical assistance program for pharmacy providers under state medical assistance programs.
- Establishes requirements to regulate non-fraud audits started after April 1, 2007 of pharmacy providers under state medical assistance programs.

Hearing Date: 2/19/07

Staff: Chris Cordes (786-7103).

Background:

State medical assistance programs pay for health care for low-income state residents, primarily through the Medicaid program. These programs are administered by the Department of Social and Health Services (DSHS). Most of these programs are jointly funded with state and federal matching funds.

Audits of Providers Under State Medical Assistance Programs

Statutory Audit Requirements. The DSHS is authorized to conduct audits and investigations of providers of health services to beneficiaries under the state medical assistance programs. To discover the provider's usual or customary charges, the DSHS may examine random

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

representative records as necessary to show accounts billed and received. If an overpayment is discovered, it may be offset by underpayments also discovered in the same audit sample.

If an audit shows an overpayment, the DSHS must give notice to the provider demanding that the overpayment be paid within 20 days. The provider may request a hearing if the request is filed within 28 days of the notice.

Audit Requirements under DSHS Rules. Providers must enter into agreements with the agency to be approved as a provider. They must keep legible, accurate, and complete records to justify the services for which payment is claimed. Records must be available for six years from the date of service, unless state or federal law requires a longer period.

Providers are to be given 20 days advance notice of an audit. Audits may be conducted either on-site or by a desk audit. They may be performed claim-by-claim or by using a probability sample. If a sample is used, it must meet recognized and generally accepted sampling methods and must ensure a minimum 95 percent confidence level when projecting an overpayment.

On completion of an audit, the provider has 30 days to locate and provide any missing records. After the 30 day period, a draft audit report is issued. Within 45 days, unless the time is extended, the provider may comment on the draft audit report or submit additional information. A dispute conference may also be requested. A final audit report may be appealed as provided by law.

Federal Audit Requirements for Medicaid

Federal law requires each state administering a Medicaid program to establish and maintain an adequate internal control structure to ensure that Medicaid is administered in compliance with federal law. This control structure must be part of the approved state plan required to receive federal funding. Various government audit requirements establish the standards that the state must meet, including ensuring the propriety of expenditures reported for federal matching funds. State auditors also review Medicaid expenditures annually under the federal Single Audit Act of 1984. States must ensure both proper payment and recovery of overpayments for unallowable claims.

Summary of Bill:

Intent

The Legislature's stated intent is that the DSHS regulatory and audit programs of health services providers must include:

- a systematic pharmacy audit program for determining compliance with laws relating to payment for recipient services;
- a technical assistance program to identify pharmacies that could benefit from technical assistance; and
- a systematic method to provide for program improvement.

Technical Assistance

The Secretary of DSHS (Secretary) must establish a technical assistance program for pharmacies that includes education and technical assistance. The DSHS may order a pharmacy to comply with a corrective plan if technical assistance shows a pattern of technical deficiencies.

The DSHS must incorporate into its provider payment system, by January 1, 2009, a system to identify and report patterns of technical deficiencies by pharmacies, with progress to be reported to the Legislature by January 1, 2008, and September 1, 2008.

Pharmacy Audit Program

Various changes are made in procedures for pharmacy non-fraud audits that are started after April 1, 2007.

Audit Cycles. Pharmacy audits must be done on regular audit cycles and be prioritized based on criteria, including a history of complying with state medical assistance program requirements.

Technical Deficiencies. Technical deficiencies, such as errors in documentation that do not affect patient care or receipt of services, may not be used as a basis to find overpayments unless recoupment of the payment is required by law or failure to recoup the payment will result in loss of federal funding. However, providers with technical deficiencies are subject to corrective plans, and recoupment action may be taken for failure to comply with the plan.

An audited pharmacy may use documentation from other providers to validate the pharmacy's record.

Use of Sampling Techniques. Auditors may not use extrapolation from a sample of records to calculate the amount of an overpayment. Recoupment of overpayments must be based on actual overpayments unless a projected amount is part of an agreed-to settlement.

Timelines. A pharmacy must be given at least 45 days to respond to a draft audit, with extensions granted for good cause. The DSHS must deliver a final audit report within 180 days after the later of the delivery of the draft audit or a dispute conference or the audit report is deemed to be a draft audit report.

Rules

The Secretary may adopt rules to implement the technical assistance and audit provisions.

Appropriation: None.

Fiscal Note: Requested on February 14, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.