

Senate Engrossed

pharmacy audit; procedures; prohibition

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1165

AN ACT

AMENDING SECTION 20-3322, ARIZONA REVISED STATUTES; RELATING TO PHARMACY BENEFITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-3322, Arizona Revised Statutes, is amended to
3 read:

4 20-3322. Audit procedures; interest prohibition; claim
5 payment reduction

6 A. The following procedures apply to an audit conducted by an
7 auditing entity:

8 1. When conducting an in-pharmacy audit an auditing entity shall:

9 (a) Give a pharmacy at least fourteen days' written notice.

10 (b) Not conduct an audit during the first five days of the month
11 unless the pharmacy otherwise consents.

12 (c) Provide the pharmacy a list of items to be audited that
13 provides for identification of prescription number or numbers or date
14 range that the auditing entity is seeking to audit.

15 (d) When conducting an in-pharmacy **AUDIT** or desktop audit, limit
16 the audit to claims that **may DO** not exceed two years from the date that
17 the claim was adjudicated by the pharmacy benefits manager.

18 2. An in-pharmacy audit or desktop audit that involves clinical or
19 professional judgment shall be conducted by or in consultation with a
20 pharmacist.

21 3. The pharmacy may use the records of a hospital, physician or
22 other authorized practitioner to validate the pharmacy records. The
23 validated records may be obtained via electronic methods, fax, ~~phone~~
24 **TELEPHONE** or written prescription orders and do not have to be the
25 original hard copy prescription order.

26 4. Each pharmacy shall be audited under the same standards and
27 parameters as other similarly situated pharmacies in this state.

28 **5. WHEN CONDUCTING A WHOLESALE INVOICE AUDIT, AN AUDITING ENTITY**
29 **SHALL:**

30 (a) **NOT AUDIT THE PHARMACY CLAIMS OF ANOTHER AUDITING ENTITY.**

31 (b) **REVERSE A FINDING OF DISCREPANCY IF THE PHARMACIST OR PHARMACY**
32 **DISPENSED THE CORRECT QUANTITY OF THE DRUG ACCORDING TO THE PRESCRIPTION**
33 **AND EITHER OF THE FOLLOWING APPLIES:**

34 (i) **THE NATIONAL DRUG CODE PUBLISHED BY THE UNITED STATES FOOD AND**
35 **DRUG ADMINISTRATION IS IN A QUANTITY THAT IS A SUBUNIT OR MULTIPLE OF THE**
36 **DRUG PURCHASED BY THE PHARMACIST OR PHARMACY ACCORDING TO THE SUPPLIER**
37 **INVOICE.**

38 (ii) **THE DRUG DISPENSED BY THE PHARMACIST OR PHARMACY SHARES ALL**
39 **BUT THE LAST TWO DIGITS OF THE UNITED STATES FOOD AND DRUG**
40 **ADMINISTRATION'S NATIONAL DRUG CODE OF THE DRUG REFLECTED ON THE SUPPLIER**
41 **INVOICE.**

42 (c) **AS A PRESUMPTION OF VALIDITY OF A PURCHASE OF A DISPENSED DRUG,**
43 **ACCEPT ANY OF THE FOLLOWING TO SUPPORT THE PHARMACY'S CLAIM RELATED TO A**
44 **DISPENSED DRUG:**

45 (i) **COPIES OF THE SUPPLIER INVOICES IN THE PHARMACIST'S OR**
46 **PHARMACY'S POSSESSION, SUBJECT TO VALIDATION THAT INCLUDES VALIDATING THE**

1 PHARMACY PURCHASE ORDER AND THE PAYMENT OF THE SUPPLIER INVOICE, AND
2 INCLUDING ANY SUPPLIER INVOICES THAT WERE ISSUED BEFORE THE DATE THE DRUG
3 WAS DISPENSED BUT NOT EARLIER THAN NINETY DAYS BEFORE THE FIRST DAY OF THE
4 AUDIT PERIOD AND ANY OTHER INVOICES AND SUPPORTING DOCUMENTATION FROM A
5 SUPPLIER THAT IS AUTHORIZED BY FEDERAL OR STATE LAW TO TRANSFER OWNERSHIP
6 OF THE DRUG TO THE PHARMACIST OR PHARMACY. THE VALIDATION MAY ALSO
7 REQUIRE INFORMATION THAT IS REQUIRED UNDER THE DRUG SUPPLY CHAIN SECURITY
8 ACT (P.L. 113-54; 127 STAT. 599; 21 UNITED STATES CODE SECTIONS 360eee
9 THROUGH 360eee-4).

10 (ii) ANY REPORTS REQUIRED BY A STATE BOARD OR AGENCY.

11 (d) NOT LATER THAN THE TENTH BUSINESS DAY AFTER RECEIVING THE
12 PHARMACY'S REQUEST, PROVIDE ANY SUPPORTING DOCUMENTATION THAT THE PHARMACY
13 SUPPLIER PROVIDED TO THE AUDITING ENTITY.

14 B. When conducting an in-pharmacy audit or desktop audit, an
15 auditing entity shall comply with the following requirements:

16 1. The auditing entity shall base a finding of overpayment or
17 underpayment on the actual overpayment or underpayment and not on a
18 projection based on the number of patients served who have similar
19 diagnoses or on the number of similar orders or refills for similar drugs,
20 unless required by federal or state law.

21 2. The auditing entity may not recoup monies from the pharmacy for
22 any clerical errors identified in an audit.

23 3. Any finding of an overpayment may not include the dispensing fee
24 amount unless any of the following criteria ~~are~~ IS met:

25 (a) A prescription was not received by the patient or the patient's
26 designee.

27 (b) The prescriber denied authorization.

28 (c) The prescription dispensed was a medication error by the
29 pharmacy.

30 (d) The identified overpayment is based solely on an extra
31 dispensing fee.

32 C. Interest may not accrue during the audit period.

33 D. AN AUDITING ENTITY MAY NOT, DIRECTLY OR INDIRECTLY,
34 RETROACTIVELY REDUCE THE AMOUNT OF A CLAIM PAYMENT TO A PHARMACIST OR A
35 PHARMACY AFTER ADJUDICATION OF THE CLAIM FOR A PRESCRIPTION DRUG UNLESS
36 ANY OF THE FOLLOWING APPLIES:

37 1. THE ORIGINAL CLAIM WAS FOUND TO HAVE BEEN FRAUDULENTLY SUBMITTED
38 THROUGH AN AUDIT CONDUCTED IN ACCORDANCE WITH THIS ARTICLE.

39 2. THE CLAIM SUBMITTED WAS A DUPLICATE FOR WHICH THE PHARMACY HAD
40 ALREADY RECEIVED PAYMENT.

41 3. THE ORIGINAL REIMBURSEMENT WAS INCORRECT DUE TO AN ERROR THAT
42 RESULTED IN AN OVERPAYMENT BY AN INSURER OR A PHARMACY BENEFIT MANAGER.

43 E. SUBSECTION D OF THIS SECTION DOES NOT PROHIBIT AN AUDITING
44 ENTITY, INSURER OR PHARMACY BENEFIT MANAGER FROM INCREASING THE AMOUNT OF
45 A CLAIM PAYMENT AFTER ADJUDICATION OF THE CLAIM.