



March 31, 2023

ENGROSSED HOUSE BILL No. 1445

DIGEST OF HB 1445 (Updated March 29, 2023 10:40 am - DI 140)

Citations Affected: IC 12-15; IC 27-1.

Synopsis: Audit of prescription drugs. Requires the department of insurance (department) to issue a request for proposal to audit the prescription drug programs within the state employee health plan and the Medicaid program. Requires the department to evaluate and determine whether to include specified metrics in the request for proposal. Provides that the audit look back period must be the previous five state fiscal years. Provides that the results of the audits must be provided to the interim study committee on public health, behavioral health, and human services before September 1, 2024.

Effective: Upon passage.

Vermilion, Lehman, Carbaugh, Porter

(SENATE SPONSORS — BOHACEK, CHARBONNEAU, ZAY)

January 17, 2023, read first time and referred to Committee on Public Health.
February 7, 2023, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.
February 20, 2023, amended, reported — Do Pass.
February 22, 2023, read second time, ordered engrossed. Engrossed.
February 23, 2023, read third time, passed. Yeas 92, nays 0.

SENATE ACTION

March 6, 2023, read first time and referred to Committee on Insurance and Financial Institutions.
March 30, 2023, reported favorably — Do Pass; reassigned to Committee on Appropriations.

EH 1445—LS 7024/DI 134



March 31, 2023

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1445

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-15-13.6-1, AS ADDED BY P.L.196-2021,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 1. **(a)** Once every three (3) state fiscal years:
4 (1) the state board of accounts; or
5 (2) an independent auditor with experience auditing expenses
6 related to prescription drugs that is hired by the state board of
7 accounts;
8 shall conduct an audit examining prescription drug cost sharing for the
9 Medicaid program.
10 **(b) The department of insurance shall, for an audit required**
11 **under IC 27-1-3.7, issue a request for proposal under IC 27-1-3.7**
12 **to evaluate and determine whether to include the following in the**
13 **request for proposal for the audit:**
14 (1) **Cost sharing.**
15 (2) **Spread pricing.**
16 (3) **Patient steering.**
17 (4) **Proper brand and generic definitions.**

EH 1445—LS 7024/DI 134



- 1 (5) Effective rate clawbacks.
 2 (6) Medical loss ratio inflation.
 3 (7) Formulary compliance.
 4 (8) Discriminatory pricing.
 5 (9) Specialty drug definition and categorization.
 6 (10) Adherence to contracted pricing terms.
 7 (11) Adherence to plan design, including:
 8 (A) quantity limits; and
 9 (B) prior authorization guidelines.
 10 (12) Under market reimbursements to pharmacies.
 11 (13) Dispensing fees.
 12 (14) Lesser of logic pricing.
 13 (15) Fraud, waste, and abuse.
 14 (16) Rebates.
 15 (17) Compliance with federal law.
 16 (18) Review of practices of any of the following used within
 17 the Medicaid program:
 18 (A) Managed care organizations.
 19 (B) Pharmacies.
 20 (C) Pharmacy services administrative organizations.
 21 (D) Wholesalers.
 22 (E) Drug manufacturers.
 23 (19) Any other metric determined by the department of
 24 insurance for inclusion in the audit of the Medicaid program.

25 **This subsection expires December 31, 2025.**

26 SECTION 2. IC 12-15-13.6-2, AS ADDED BY P.L.196-2021,
 27 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]: Sec. 2. (a) For an audit conducted under section 1
 29 1(a) of this chapter, the audit look back period must be the previous
 30 three (3) state fiscal years.

31 (b) For an audit described in section 1(b) of this chapter, the
 32 look back period must be the previous five (5) state fiscal years.
 33 **This subsection expires December 31, 2025.**

34 SECTION 3. IC 12-15-13.6-4, AS ADDED BY P.L.196-2021,
 35 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 UPON PASSAGE]: Sec. 4. (a) The results of an audit conducted under
 37 section 1 of this chapter must be provided to the office of the secretary.

38 (b) Before September 1, 2024, the results of an audit conducted
 39 under IC 27-1-3.7 and section 1(b) of this chapter must be provided
 40 to the interim study committee on public health, behavioral health,
 41 and human services established by IC 2-5-1.3-4. This subsection
 42 expires December 31, 2025.



1 SECTION 4. IC 27-1-3.7 IS ADDED TO THE INDIANA CODE
 2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]:

4 **Chapter 3.7. Audit of Pharmacy Benefit Managers Contracted**
 5 **with the State**

6 **Sec. 1. As used in this chapter, "state employee health plan"**
 7 **refers to the following plans that provide coverage for prescription**
 8 **drugs:**

9 (1) A self-insurance program established under
 10 IC 5-10-8-7(b).

11 (2) A contract with a prepaid health care delivery plan that is
 12 entered into or renewed under IC 5-10-8-7(c).

13 The term includes a person that administers prescription drug
 14 benefits on behalf of a state employee health plan.

15 **Sec. 2. As used in this chapter, "Medicaid audit" refers to the**
 16 **audit required by IC 12-15-13.6-1(b).**

17 **Sec. 3. (a) Before September 1, 2023, the department shall issue**
 18 **a request for proposal for a state employee health plan audit and**
 19 **a Medicaid audit. The department shall evaluate and determine**
 20 **whether to include the following in the request for proposal in the**
 21 **audit of prescription drugs:**

22 (1) Prescription drug cost sharing.

23 (2) Spread pricing.

24 (3) Patient steering.

25 (4) Proper brand and generic definitions.

26 (5) Effective rate clawbacks.

27 (6) Medical loss ratio inflation.

28 (7) Formulary compliance.

29 (8) Discriminatory pricing.

30 (9) Specialty drug definition and categorization.

31 (10) Adherence to contracted pricing terms.

32 (11) Adherence to plan design, including:

33 (A) quantity limits; and

34 (B) prior authorization guidelines.

35 (12) Under market reimbursements to pharmacies.

36 (13) Dispensing fees.

37 (14) Lesser of logic pricing.

38 (15) Fraud, waste, and abuse.

39 (16) Rebates.

40 (17) Review of practices of any of the following used by the
 41 state employee health plan or the Medicaid program:

42 (A) Managed care organizations.



- 1 **(B) Pharmacies.**
- 2 **(C) Pharmacy services administrative organizations.**
- 3 **(D) Wholesalers.**
- 4 **(E) Drug manufacturers.**
- 5 **(18) Any other metric determined by the department.**
- 6 **(b) The department may consult with the state personnel**
- 7 **department and the office of the secretary of family and social**
- 8 **services in:**
- 9 **(1) developing the request for proposal; and**
- 10 **(2) awarding the contract.**
- 11 **(c) The department shall develop the request for proposal in a**
- 12 **manner that would begin the audit before February 1, 2024.**
- 13 **(d) Any contract between the state personnel department or the**
- 14 **office of the secretary of family and social services for the**
- 15 **administration of prescription drugs must include a provision to**
- 16 **require the person to cooperate with an audit conducted under this**
- 17 **chapter and provide the required information to the person**
- 18 **awarded the contract for the audit.**
- 19 **Sec. 4. (a) For an audit conducted under this chapter, the audit**
- 20 **look back period must be the previous five (5) state fiscal years.**
- 21 **(b) The:**
- 22 **(1) state personnel department;**
- 23 **(2) office of the secretary of family and social services; and**
- 24 **(3) any private agency, business firm, limited liability**
- 25 **company, or corporation with which the state personnel**
- 26 **department of office of the secretary has contracted for**
- 27 **administrative services;**
- 28 **shall provide the necessary data to the auditor to complete an audit**
- 29 **described in this chapter.**
- 30 **Sec. 5. Before September 1, 2024, the department shall provide**
- 31 **the results of an audit conducted under this chapter to the interim**
- 32 **study committee on public health, behavioral health, and human**
- 33 **services established by IC 2-5-1.3-4 in an electronic format under**
- 34 **IC 5-14-6.**
- 35 **Sec. 6. This chapter expires December 31, 2025.**
- 36 **SECTION 5. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1445, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1445 as introduced.)

BARRETT

Committee Vote: yeas 13, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1445, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 16, after "(18)" insert "**Review of practices of any of the following used within the Medicaid program:**

- (A) Managed care organizations.
- (B) Pharmacies.
- (C) Pharmacy services administrative organizations.
- (D) Wholesalers.
- (E) Drug manufacturers.

(19)".

Page 2, line 31, delete "November 1, 2024," and insert "**September 1, 2024,**".

Page 3, line 33, after "(17)" insert "**Review of practices of any of the following used by the state employee health plan or the Medicaid program:**

- (A) Managed care organizations.
- (B) Pharmacies.
- (C) Pharmacy services administrative organizations.

EH 1445—LS 7024/DI 134



(D) Wholesalers.

(E) Drug manufacturers.

(18)".

Page 4, line 16, delete "November 1, 2024," and insert "**September 1, 2024,**".

and when so amended that said bill do pass.

(Reference is to HB 1445 as printed February 7, 2023.)

THOMPSON

Committee Vote: yeas 18, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1445, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1445 as printed February 20, 2023.)

BALDWIN, Chairperson

Committee Vote: Yeas 6, Nays 0

