2019 Regular Session

HOUSE BILL NO. 538



BY REPRESENTATIVES LEBAS AND AMEDEE

1	AN ACT
2	To amend and reenact R.S. 22:1856.1(B)(introductory paragraph), (2), (3), (7)(b), and (8),
3	(D)(1)(introductory paragraph) and (2)(introductory paragraph), and (F), to enact
4	R.S. 22:1856.1(D)(3), and to repeal R.S. 22:1856.1(G)(3) and (4), relative to
5	pharmacy record audits; to provide for applicability of laws relative to such audits;
6	to provide relative to procedures for such audits; to repeal provisions relative to
7	onsite audits; to provide relative to audits conducted by or in consultation with
8	licensed pharmacists; to provide limitations on recoupment of reimbursements paid
9	to pharmacists; and to provide for related matters.
10	Be it enacted by the Legislature of Louisiana:
11	Section 1. R.S. 22:1856.1(B)(introductory paragraph), (2), (3), (7)(b), and (8),
12	(D)(1)(introductory paragraph) and (2)(introductory paragraph), and (F) are hereby amended
13	and reenacted and R.S. 22:1856.1(D)(3) is hereby enacted to read as follows:
14	§1856.1. Pharmacy record audits; recoupment; appeals
15	* * *
16	B. Notwithstanding any other provision of law to the contrary, when an
17	onsite audit of the records of a pharmacy is conducted by an entity, the audit shall
18	be conducted in accordance with the following criteria:
19	* * *
20	(2)(a) No entity shall conduct an $\frac{\text{on-site}}{\text{on-site}}$ audit at a particular pharmacy more
21	than one time annually. However, the provisions of this Paragraph shall not apply
22	when an entity must return to a pharmacy to complete an audit already in progress,

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1	or there is an identified history of errors, an identified activity which a reasonable
2	man would believe to be inappropriate, or illegal activity that the entity has brought
3	to the attention of the pharmacy owner or corporate headquarters of the pharmacy.
4	(b) Nothing in this Paragraph shall prohibit review of a claim filed by a
5	pharmacy to determine if the claim is payable or is paid correctly. Such review may
6	require the submission of prescription copies and other documentation related to the
7	specific claims under review but shall not require the pharmacy to provide any
8	additional information not related to those specific claims.
9	(3)(a) The entity or any vendor or subcontractor of the entity which conducts
10	the initial onsite audit shall give the pharmacy notice at least two weeks before
11	conducting the initial onsite audit for each audit cycle.
12	(b) If the audit, review, or investigation is initiated based on or involves
13	alleged fraud or willful misrepresentation, notice before the initial on-site audit is not
14	mandatory where it could impede the audit, review, or investigation.
15	* * *
16	(7)
17	* * *
18	(b) A pharmacy shall be allowed at least thirty days following receipt of the
19	preliminary audit report in which to initiate an appeal to address any discrepancy
20	found during an on-site audit, as provided in Subsection E of this Section.
21	* * *
22	(8) Any audit which involves clinical judgment shall be conducted by or in
23	consultation with a licensed pharmacist licensed in Louisiana.
24	* * *
25	D.(1) No pharmacy shall be subject to recoupment of any portion of the
26	reimbursement for the dispensed product of a prescription unless one or more of the
27	following has occurred at the point of adjudication:
28	* * *
29	(2) Recoupment of claims shall be based on the actual financial harm to the
30	entity, or on the actual overpayment or underpayment, at the point of adjudication.

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1	A finding of an overpayment that is the result of dispensing in excess of the benefit
2	design, as established by the plan sponsor, shall be calculated as the difference
3	between what was dispensed in accordance with the prescriber's orders and the
4	dispensing requirements as set forth by the benefit design. Calculations of
5	overpayments shall not include dispensing fees unless one or more of the following
6	conditions has been satisfied:
7	* * *
8	(3) If any entity determines that the processed or adjudicated claim of a
9	pharmacy qualifies for recoupment based upon the use of manufacturer coupon or
10	copay card, such recoupment shall come from the beneficiary of the reduction if the
11	product is approved by the United States Food and Drug Administration through the
12	new drug application process or abbreviated new drug application, or is an
13	investigational drug which is a biological product as defined in R.S. 40:1169.3.
14	* * *
15	F. Unless otherwise provided for in the network agreement, pharmacies or
16	payors may seek mediation to resolve contractual disputes related to pricing or
17	on-site audits.
18	* * *
19	Section 2. R.S. $22:1856.1(G)(3)$ and (4) are hereby repealed in their entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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