

By Senator Bean

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1 A bill to be entitled
2 An act relating to pharmacy audits; creating s.
3 465.1885, F.S.; enumerating the rights of pharmacies
4 relating to audits of pharmaceutical services which
5 are conducted by certain entities; exempting audits in
6 which fraudulent activity is suspected or which are
7 related to Medicaid claims; establishing a claim for
8 civil damages if the pharmacy's rights are violated;
9 providing an effective date.

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

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

15 465.1885 Pharmacy audits; rights.-

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

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

25 (b) To have the on-site audit scheduled after the first 5
26 calendar days of a month unless the pharmacist consents
27 otherwise.

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

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

32 (e) To use the records of a hospital, physician, or other
33 authorized practitioner, which are transmitted by any means of
34 communication, to validate the pharmacy records.

35 (f) To be reimbursed for a claim that was retroactively
36 denied for a clerical error, typographical error, scrivener's
37 error, or computer error if the prescription was properly and
38 correctly dispensed, unless a pattern of such errors exists or
39 fraudulent billing is alleged.

40 (g) To receive the preliminary audit report within 90 days
41 after the conclusion of the audit.

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

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

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

50 (2) The rights contained in this section do not apply to
51 audits in which fraudulent activity is suspected or to audits
52 related to fee-for-service claims under the Medicaid program.

53 (3) A pharmacy injured as a result of a willful violation
54 of this section shall have a civil cause of action for treble
55 damages, reasonable attorney fees, and costs.

56 Section 2. This act shall take effect July 1, 2014.