

HOUSE BILL No. 1051

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-26-22.

Synopsis: Pharmacy audits. Specifies pharmacy audit requirements, including limitations on an initial audit and on onsite audits. Requires a period of at least 60 days during which a pharmacy may appeal preliminary audit report findings. Prohibits the recoupment of dispensing fees under certain circumstances. Requires reimbursement of a pharmacy for the copying of prescriptions and provides for the correction of prescription errors.

Effective: July 1, 2012.

Davisson

January 9, 2012, read first time and referred to Committee on Public Health.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1051



A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

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

1 SECTION 1. IC 25-26-22-4.2 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: **Sec. 4.2. A third party payer may**
4 **cause an onsite audit to occur at a particular pharmacy location**
5 **not more than one (1) time per calendar year.**

6 SECTION 2. IC 25-26-22-5, AS ADDED BY P.L.7-2009,
7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2012]: Sec. 5. An auditor conducting an audit shall comply
9 with all of the following:

- 10 (1) The contract under which the audit is performed must provide
11 a description of audit procedures that will be followed.
- 12 (2) For an onsite audit conducted at a pharmacy's location, the
13 auditor that conducts the audit shall provide written notice to the
14 pharmacy at least two (2) weeks before the initial onsite audit is
15 performed for each audit cycle.
- 16 (3) The auditor shall not interfere with the delivery of pharmacist
17 services to a patient and shall use every effort to minimize



- 1 inconvenience and disruption to pharmacy operations during the
 2 audit. This subdivision does not prohibit audits during normal
 3 business hours of the pharmacy.
- 4 (4) If the audit requires use of clinical or professional judgment,
 5 the audit must be conducted by or in consultation with a licensed
 6 pharmacist.
- 7 (5) The auditor shall allow the use of written or otherwise
 8 transmitted hospital, physician, or other health practitioner
 9 records to validate a pharmacy record with respect to a
 10 prescription for a legend drug.
- 11 (6) The auditor shall perform the audit according to the same
 12 standards and parameters that the auditor uses to audit all other
 13 similarly situated pharmacies on behalf of the third party payer.
- 14 (7) The period covered by the audit must not exceed ~~twenty-four~~
 15 **(24) eighteen (18)** months after the date on which the claim that
 16 is the subject of the audit was submitted to or adjudicated by the
 17 third party payer, and the pharmacy must be permitted to resubmit
 18 electronically any claims disputed by the audit. This subdivision
 19 does not limit the period for audits under the Medicaid program
 20 that are conducted due to a federal requirement.
- 21 (8) The audit must not be initiated or scheduled during the first
 22 ~~five (5)~~ **seven (7)** calendar days of any month without the
 23 voluntary consent of the pharmacy. The consent may not be
 24 mandated by a contract or any other means.
- 25 (9) Payment to the onsite auditor for conducting the audit must
 26 not be based on a percentage of any amount recovered as a result
 27 of the audit.
- 28 **(10) A pharmacy may reschedule an audit to a date not more**
 29 **than fourteen (14) days after the date proposed by the**
 30 **auditor.**
- 31 **(11) An initial audit must be limited to not more than**
 32 **seventy-five (75) claims.**
- 33 **(12) The third party payer shall reimburse the pharmacy**
 34 **twenty-five cents (\$0.25) for each copy of a prescription**
 35 **required for an audit.**
- 36 **(13) If a prescription error is identified by the auditor during**
 37 **the course of an audit, the auditor shall allow the pharmacy**
 38 **to obtain a corrected prescription from the prescribing**
 39 **physician.**
- 40 SECTION 3. IC 25-26-22-6, AS ADDED BY P.L.7-2009,
 41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2012]: Sec. 6. (a) Following an audit, the auditor shall provide

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1 to the pharmacy written audit reports as follows:

2 (1) The auditor shall deliver a preliminary audit report to the
3 pharmacy not later than ninety (90) days after the audit is
4 concluded.

5 (2) The auditor shall provide with the preliminary audit report a
6 written appeal procedure for the pharmacy to follow if the
7 pharmacy desires to appeal a finding contained in the preliminary
8 audit report. **The written appeal procedure must provide for a
9 period of at least sixty (60) days after the pharmacy receives
10 the preliminary audit report during which the pharmacy may
11 file an appeal of findings contained in the preliminary audit
12 report.**

13 (3) The auditor shall deliver a final audit report to the pharmacy
14 not later than one hundred twenty (120) days after:

15 (A) the preliminary audit report is received by the pharmacy;
16 or

17 (B) if an appeal is filed, a final appeal determination is made;
18 whichever is later.

19 (4) Each audit report must be signed by the auditor and a
20 pharmacist participating in the audit.

21 (5) The auditor shall provide a copy of the final audit report to the
22 third party payer.

23 **(b) An audit report provided to a pharmacy under this section
24 must be sent to the pharmacy by certified mail.**

25 SECTION 4. IC 25-26-22-9, AS ADDED BY P.L.7-2009,
26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2012]: Sec. 9. (a) ~~A final audit report must first be distributed~~
28 Before recoupment of funds may be made based on an audit finding of
29 overpayment or underpayment:

30 **(1) a final audit report must be distributed; and**

31 **(2) at least thirty (30) days must elapse after the date on which
32 the final audit report is distributed.**

33 (b) Except for audits conducted under the Medicaid program,
34 interest on funds described in subsection (a) does not accrue during the
35 audit period.

36 **(c) The recoupment of funds from a pharmacy based on an
37 audit finding of overpayment of a claim may not include the
38 recoupment of a dispensing fee if the pharmacy dispensed the drug
39 or device prescribed in the prescription that is the subject of the
40 claim.**

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