

STATE OF KANSAS

---

SENATE CHAMBER

MR. PRESIDENT:

I move to amend **HB 2182**, as amended by House Committee, on page 1, following line 5, by inserting:

"New Section 1. Sections 1 through 6, and amendments thereto, shall be known and may be cited as the pharmacy audit integrity act.

New Sec. 2. As used in this act, "pharmacy benefits manager" or "PBM" means a person, business or other entity that performs pharmacy benefits management. The term includes a person or entity acting for a PBM in contractual or employment relationship in the performance of pharmacy benefits management for a managed care company, not-for-profit hospital or medical service organization, insurance company, third-party payor or health program administered by the state board of pharmacy.

New Sec. 3. (a) The entity conducting the audit shall follow the following procedures:

(1) An entity conducting an on-site audit must give the pharmacy at least seven days written notice before conducting an initial audit;

(2) an audit that involves clinical or professional judgment must be conducted by or in consultation with a licensed pharmacist;

(3) the period covered by the audit may not exceed two years from the date that the claim was submitted to or adjudicated by the entity;

(4) the pharmacy may request an extension not to exceed seven days from the date of an originally scheduled on-site audit;

(5) the pharmacy may use the records of a hospital, physician or other authorized practitioner

to validate the pharmacy record;

(6) any legal prescription, in compliance with the requirements of the state board of pharmacy, may be used to validate claims in connection with prescriptions, refills or changes in prescriptions;

(7) each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies; and

(8) the entity conducting the audit must establish a written appeals process.

(b) The entity conducting the audit shall also comply with the following requirements:

(1) A finding of overpayment or underpayment must be based on the actual overpayment or underpayment and not a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs;

(2) the entity conducting the audit shall not use extrapolation in calculating the recoupments or penalties for audits, unless required by state or federal contracts;

(3) the auditing company or agent may not receive payment based on a percentage of the amount recovered, unless required by contracts; and

(4) interest may not accrue during the audit period.

New Sec. 4. (a) Any preliminary audit report must be delivered to the pharmacy within 60 days after the conclusion of the audit. Any pharmacy shall be allowed at least 30 days following receipt of the preliminary audit to provide documentation to address any discrepancy found in the audit. Any final audit report shall be delivered to the pharmacy within 120 days after receipt of the preliminary audit report or final appeal, whichever is later.

(b) Recoupment of any disputed funds or repayment of funds to the entity by the pharmacy, if permitted pursuant to contracts, shall occur, to the extent demonstrated or documented in the pharmacy audit findings, after final internal disposition of the audit including the appeals process. If the identified

discrepancy for an individual audit exceeds \$20,000, any future payments to the pharmacy may be withheld pending finalization of the audit. Unless otherwise required by the federal or state law, any audit information may not be shared. Auditors shall only have access to previous audit reports on a particular pharmacy conducted by that same entity.

New Sec. 5. Any auditing entity, upon request of the plan sponsor, shall provide a copy of the final report, including the disclosure of any money recouped in the audit. The pharmacy may provide a copy of the report to the commissioner of insurance, provided such report shall not contain any personally identifiable health information in violation of the provisions of the health insurance portability and accountability act of 1996 (Pub. L. No. 104-191).

New Sec. 6. This act shall apply to contracts between an auditing entity and a pharmacy entered into, extended or renewed on or after the effective date of this act. This act shall not apply to any audit, review or investigation that is initiated based upon suspected or alleged fraud, willful misrepresentation or abuse.";

And by redesignating the remaining sections;

On page 1, in the title, in line 1, after "concerning" by inserting "pharmacy; the pharmacy audit integrity act and"; also in line 1, by striking "relating to mail service"; in line 2, by striking "pharmacies;"

Senator \_\_\_\_\_