

By: Van de Putte

S.B. No. 591

A BILL TO BE ENTITLED

1 AN ACT

2 relating to procedures for certain audits of pharmacists and  
3 pharmacies.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 843, Insurance Code, is amended by  
6 adding Subchapter O to read as follows:

7 SUBCHAPTER O. AUDITS OF PHARMACISTS AND PHARMACIES

8 Sec. 843.501. DEFINITIONS. In this subchapter:

9 (1) "Auditor" means a health maintenance organization  
10 or a pharmacy benefit manager that provides pharmacy-related  
11 services for health maintenance organization enrollees that is  
12 performing an on-site audit or a desk audit of a pharmacist or  
13 pharmacy or another entity performing an on-site audit or a desk  
14 audit of a pharmacist or pharmacy on behalf of the organization or  
15 manager.

16 (2) "Desk audit" means an audit conducted by an  
17 auditor at a location other than the location of the pharmacist or  
18 pharmacy. The term includes an audit performed at the auditor's  
19 offices during which the pharmacist or pharmacy provides requested  
20 documents for auditor review by hard copy or by microfiche, disk, or  
21 other electronic media.

22 (3) "On-site audit" means an audit that is conducted  
23 at:

24 (A) the location of the pharmacist or pharmacy;

1 or

2 (B) another location at which the records under  
3 review are stored.

4 Sec. 843.503. AUDIT REQUIRING PROFESSIONAL JUDGMENT. An  
5 on-site audit or a desk audit involving a pharmacist's clinical or  
6 professional judgment must be conducted in consultation with a  
7 pharmacist licensed by the Texas State Board of Pharmacy.

8 Sec. 843.504. ACCESS TO PHARMACY AREA. An auditor may not  
9 enter the pharmacy area unless escorted by the pharmacist-in-charge  
10 as defined by Section 551.003(29), Occupations Code.

11 Sec. 843.505. VALIDATION USING CERTAIN RECORDS AUTHORIZED.  
12 A pharmacist or pharmacy that is being audited may:

13 (1) validate a prescription, refill, or change in a  
14 prescription with a prescription that complies with rules adopted  
15 under Section 554.051, Occupations Code; and

16 (2) validate the delivery of a prescription with a  
17 written record of a hospital, physician, or other authorized  
18 practitioner of the healing arts.

19 Sec. 843.506. CALCULATION OF RECOUPMENT; USE OF  
20 EXTRAPOLATION PROHIBITED. (a) An auditor may not calculate the  
21 amount of a recoupment based on:

22 (1) an absence of documentation the pharmacist or  
23 pharmacy is not required by law to maintain; or

24 (2) an error that does not result in actual financial  
25 harm to the enrollee, health maintenance organization, or pharmacy  
26 benefit manager.

27 (b) A health maintenance organization or pharmacy benefit

1 manager may not require extrapolation audits as a condition of  
2 participation in a contract, network, or program for a pharmacist  
3 or pharmacy.

4 (c) An auditor may not use extrapolation to complete an  
5 on-site audit or a desk audit of a pharmacist or pharmacy.  
6 Notwithstanding Subsection (a)(2), the amount of a recoupment must  
7 be based on the actual overpayment or underpayment and may not be  
8 based on an extrapolation.

9 (d) An auditor may not include a dispensing fee amount in  
10 the calculation of an overpayment unless:

- 11 (1) the fee was a duplicate charge; or  
12 (2) the prescription for which the fee was charged:  
13 (A) was not dispensed; or  
14 (B) was dispensed without the prescriber's  
15 authorization.

16 Sec. 843.507. CLERICAL OR RECORDKEEPING ERROR. An  
17 unintentional clerical or recordkeeping error, such as a  
18 typographical error, scrivener's error, or computer error, found  
19 during an on-site audit or a desk audit:

- 20 (1) is not prima facie evidence of fraud; and  
21 (2) may not be the basis of a recoupment from a  
22 pharmacist or pharmacy without proof of intent to commit fraud.

23 Sec. 843.508. UNIFORM STANDARDS REQUIRED. An auditor must  
24 conduct an on-site audit or a desk audit of similarly situated  
25 pharmacists or pharmacies under the same audit standards.

26 Sec. 843.509. ACCESS TO PREVIOUS AUDIT REPORTS. An auditor  
27 may have access to audit reports of a pharmacist or pharmacy that

1 were prepared only for the health maintenance organization or  
2 pharmacy benefit manager for which the auditor is conducting an  
3 audit.

4 Sec. 843.510. COMPENSATION OF AUDITOR. A health  
5 maintenance organization, pharmacy benefit manager, or other  
6 auditor may not base compensation paid to the individual or entity  
7 performing an on-site audit or a desk audit on a percentage of the  
8 amount the health maintenance organization, pharmacy benefit  
9 manager, or other auditor is entitled to recover as the result of  
10 the audit.

11 Sec. 843.511. CONCLUSION OF AUDIT; SUMMARY; PRELIMINARY  
12 AUDIT REPORT. (a) At the conclusion of an on-site audit or a desk  
13 audit, the auditor shall:

14 (1) provide to the pharmacist or pharmacy a summary of  
15 the audit findings; and

16 (2) allow the pharmacist or pharmacy to respond to  
17 questions and alleged discrepancies, if any, and comment on and  
18 clarify the findings.

19 (b) Not later than the 30th day after the date the audit is  
20 concluded, the auditor shall send by certified mail, return receipt  
21 requested, to the pharmacist or pharmacy a preliminary audit report  
22 stating the results of the audit, including explanations for and  
23 the amount of recoupment claimed.

24 (c) The pharmacist or pharmacy may, by providing  
25 documentation or otherwise, challenge a result or remedy a  
26 discrepancy stated in the preliminary audit report not later than  
27 the 30th day after the date the pharmacist or pharmacy receives the

1 report.

2 Sec. 843.512. FINAL AUDIT REPORT. Not later than the 90th  
3 day after the date the pharmacist or pharmacy receives a  
4 preliminary audit report under Section 843.511, the auditor shall  
5 send by certified mail, return receipt requested, to the pharmacist  
6 or pharmacy a final audit report that states:

7 (1) a summary of the pharmacist's or pharmacy's  
8 explanation and documentation, if any, submitted in response to the  
9 preliminary audit report; and

10 (2) the audit results, including a description of all  
11 alleged discrepancies and explanations for and the amount of  
12 recoupments claimed after consideration of the pharmacist's or  
13 pharmacy's response to the preliminary audit report.

14 Sec. 843.513. APPEAL OF FINAL AUDIT REPORT; AUDIT OUTCOME  
15 REPORT. (a) An auditor shall establish a process for a pharmacist  
16 or pharmacy to wholly or partly appeal a final audit report.

17 (b) An auditor shall use the National Council for  
18 Prescription Drug Programs' data interchange standards for  
19 pharmacy claim submission to evaluate audited claims and appeals  
20 under the process established under Subsection (a).

21 (c) On the date a final audit report is found wholly or  
22 partly unsubstantiated after an appeal under the process  
23 established under Subsection (a), the auditor shall reject the  
24 report, wholly or partly, as applicable.

25 (d) Not later than the 30th day after the date an appeal  
26 under the process established under Subsection (a) is concluded,  
27 the auditor shall send by certified mail, return receipt requested,

1 to the pharmacist or pharmacy an audit outcome report that  
2 includes:

3 (1) a summary of the pharmacist's or pharmacy's  
4 arguments and documentation, if any, submitted in response to the  
5 final audit report; and

6 (2) the audit results and recoupments claimed after  
7 consideration of the pharmacist's or pharmacy's response to the  
8 final audit report.

9 Sec. 843.514. RECOUPMENT AND INTEREST CHARGED AFTER AUDIT.

10 If an audit under this subchapter is conducted, the health  
11 maintenance organization or pharmacy benefit manager:

12 (1) may recoup from the pharmacist or pharmacy an  
13 amount based only on a final audit report or, if appealed under the  
14 process established under Section 843.513(a), an audit outcome  
15 report; and

16 (2) may not accrue or assess interest on an amount due  
17 until the later of the date the pharmacist or pharmacy receives the  
18 final audit report or, if appealed under the process established  
19 under Section 843.513(a), the date of the audit outcome report.

20 Sec. 843.515. MEDIATION. (a) A pharmacist or pharmacy

21 aggrieved by an audit outcome report may require an auditor to  
22 participate in mediation under Chapter 154, Civil Practice and  
23 Remedies Code.

24 (b) The pharmacist or pharmacy must elect mediation and  
25 notify the auditor not later than the 30th day after the date the  
26 pharmacist or pharmacy receives the audit outcome report. The  
27 mediation must be completed not later than the 90th day after the

1 date the pharmacist or pharmacy receives the audit outcome report.

2 (c) The mediation must be conducted by a person qualified as  
3 an impartial third party under Section 154.052, Civil Practice and  
4 Remedies Code.

5 Sec. 843.516. REMEDIES NOT EXCLUSIVE. This section may not  
6 be construed to waive a remedy at law available to a pharmacist or  
7 pharmacy.

8 Sec. 843.517. WAIVER PROHIBITED. The provisions of this  
9 subchapter may not be waived, voided, or nullified by contract.

10 Sec. 843.518. LEGISLATIVE DECLARATION. It is the intent of  
11 the legislature that the requirements contained in this subchapter  
12 regarding audit of claims to providers who are pharmacists or  
13 pharmacies apply to all health maintenance organizations and  
14 pharmacy benefit managers unless otherwise prohibited by federal  
15 law.

16 SECTION 2. Section 843.3401, Insurance Code, is transferred  
17 to Subchapter O, Chapter 843, Insurance Code, as added by this Act,  
18 redesignated as Section 843.502, Insurance Code, and amended to  
19 read as follows:

20 Sec. 843.502 [843.3401]. AUDIT OF PHARMACIST OR PHARMACY;  
21 NOTICE; GENERAL PROVISIONS. (a) An auditor [A health maintenance  
22 organization or a pharmacy benefit manager that administers  
23 pharmacy claims for the health maintenance organization may not use  
24 extrapolation to complete the audit of a provider who is a  
25 pharmacist or pharmacy. A health maintenance organization may not  
26 require extrapolation audits as a condition of participation in the  
27 health maintenance organization's contract, network, or program

1 ~~for a provider who is a pharmacist or pharmacy.~~

2       ~~[(b) A health maintenance organization or a pharmacy~~  
3 ~~benefit manager that administers pharmacy claims for the health~~  
4 ~~maintenance organization]~~ that performs an on-site audit or a desk  
5 audit under this chapter of a provider who is a pharmacist or  
6 pharmacy shall provide the provider reasonable notice of the audit  
7 and accommodate the provider's schedule to the greatest extent  
8 possible. The notice required under this subsection must be in  
9 writing and must be sent by certified mail to the provider not later  
10 than the 15th day before the date on which the on-site audit is  
11 scheduled to occur.

12       (b) Not later than the seventh day after the date a  
13 pharmacist or pharmacy receives notice under Subsection (a), the  
14 pharmacist or pharmacy may reschedule an on-site audit or a desk  
15 audit to a date not later than the 14th day after the date the audit  
16 is initially scheduled. On agreement of the pharmacist or pharmacy  
17 and the auditor, the audit may be rescheduled to a date after the  
18 14th day after the date the audit is initially scheduled.

19       (c) Unless the pharmacist or pharmacy consents in writing,  
20 an auditor may not schedule or have an on-site audit or a desk audit  
21 conducted:

22               (1) before the 30th day after the date the pharmacist  
23 or pharmacy receives notice under Subsection (a);

24               (2) more than once annually; or

25               (3) during the first seven calendar days of a month.

26       (d) A pharmacist or pharmacy may be required to submit  
27 documents in response to a desk audit not earlier than the 30th day



1 after the date the auditor requests the documents.

2 (e) A contract between a pharmacist or pharmacy and a health  
3 maintenance organization or a pharmacy benefit manager must state  
4 detailed audit procedures. If a health maintenance organization or  
5 pharmacy benefit manager proposes a change to the audit procedures  
6 for an on-site audit or a desk audit, the organization or manager  
7 must notify the pharmacist or pharmacy in writing of a change in an  
8 audit procedure not later than the 60th day before the effective  
9 date of the change.

10 (f) The list of the claims subject to audit must be provided  
11 in the notice under Subsection (a) to the pharmacist or pharmacy and  
12 may identify the claims only by the prescription numbers or a date  
13 range for prescriptions subject to the audit.

14 (g) If the auditor:

15 (1) in an on-site audit or a desk audit applies random  
16 sampling procedures to select claims for audit, the sample size may  
17 not be greater than 50 individual prescription claims; or

18 (2) conducts an on-site audit or a desk audit related  
19 to a specific issue, the number of individual prescription claims  
20 subject to the audit may not be greater than 50 and, notwithstanding  
21 Subsection (f), may be identified only by prescription number.

22 (h) After an audit is initiated, a pharmacist or pharmacy  
23 may electronically resubmit a disputed claim if the deadline for  
24 submission of a claim under Section 843.337 has not expired.

25 SECTION 3. Chapter 1301, Insurance Code, is amended by  
26 adding Subchapter F to read as follows:

1           SUBCHAPTER F. AUDITS OF PHARMACISTS AND PHARMACIES

2           Sec. 1301.251. DEFINITIONS. In this subchapter:

3           (1) "Auditor" means an insurer or a pharmacy benefit  
4 manager that provides pharmacy-related services for the insurer's  
5 insureds that is performing an on-site audit or a desk audit of a  
6 preferred provider that is a pharmacist or pharmacy or another  
7 entity performing an on-site audit or a desk audit of a preferred  
8 provider that is a pharmacist or pharmacy on behalf of the insurer  
9 or manager.

10           (2) "Desk audit" means an audit conducted by an  
11 auditor at a location other than the location of the pharmacist or  
12 pharmacy. The term includes an audit performed at the auditor's  
13 offices during which the pharmacist or pharmacy provides requested  
14 documents for auditor review by hard copy or by microfiche, disk, or  
15 other electronic media.

16           (3) "On-site audit" means an audit that is conducted  
17 at:

18                   (A) the location of the pharmacist or pharmacy;

19 or

20                   (B) another location at which the records under  
21 review are stored.

22           Sec. 1301.253. AUDIT REQUIRING PROFESSIONAL JUDGMENT. An  
23 on-site audit or a desk audit involving a pharmacist's clinical or  
24 professional judgment must be conducted in consultation with a  
25 pharmacist licensed by the Texas State Board of Pharmacy.

26           Sec. 1301.254. ACCESS TO PHARMACY AREA. An auditor may not  
27 enter the pharmacy area unless escorted by the pharmacist-in-charge

1 as defined by Section 551.003(29), Occupations Code.

2 Sec. 1301.255. VALIDATION USING CERTAIN RECORDS  
3 AUTHORIZED. A pharmacist or pharmacy that is being audited may:

4 (1) validate a prescription, refill, or change in a  
5 prescription with a prescription that complies with rules adopted  
6 under Section 554.051, Occupations Code; and

7 (2) validate the delivery of a prescription with a  
8 written record of a hospital, physician, or other authorized  
9 practitioner of the healing arts.

10 Sec. 1301.256. CALCULATION OF RECOUPMENT; EXTRAPOLATION  
11 PROHIBITED. (a) An auditor may not calculate the amount of a  
12 recoupment based on:

13 (1) an absence of documentation the pharmacist or  
14 pharmacy is not required by law to maintain; or

15 (2) an error that does not result in actual financial  
16 harm to the insured, insurer, or pharmacy benefit manager.

17 (b) An insurer or pharmacy benefit manager may not require  
18 extrapolation audits as a condition of participation in a contract,  
19 network, or program for a pharmacist or pharmacy.

20 (c) An auditor may not use extrapolation to complete an  
21 on-site audit or a desk audit of a pharmacist or pharmacy.  
22 Notwithstanding Subsection (a)(2), the amount of a recoupment must  
23 be based on the actual overpayment or underpayment and may not be  
24 based on an extrapolation.

25 (d) An auditor may not include a dispensing fee amount in  
26 the calculation of an overpayment unless:

27 (1) the fee was a duplicate charge; or

1           (2) the prescription for which the fee was charged:

2                   (A) was not dispensed; or

3                   (B) was dispensed without the prescriber's  
4 authorization.

5           Sec. 1301.257. CLERICAL OR RECORDKEEPING ERROR. An  
6 unintentional clerical or recordkeeping error, such as a  
7 typographical error, scrivener's error, or computer error, found  
8 during an on-site audit or a desk audit:

9                   (1) is not prima facie evidence of fraud; and

10                   (2) may not be the basis of a recoupment from a  
11 pharmacist or pharmacy without proof of intent to commit fraud.

12           Sec. 1301.258. UNIFORM STANDARDS REQUIRED. An auditor must  
13 conduct an on-site audit or a desk audit of similarly situated  
14 pharmacists or pharmacies under the same audit standards.

15           Sec. 1301.259. ACCESS TO PREVIOUS AUDIT REPORTS. An  
16 auditor may have access to audit reports of a pharmacist or  
17 pharmacy that were prepared only for the insurer or pharmacy  
18 benefit manager for which the auditor is conducting an audit.

19           Sec. 1301.260. COMPENSATION OF AUDITOR. An insurer,  
20 pharmacy benefit manager, or other auditor may not base  
21 compensation paid to the individual or entity performing an on-site  
22 audit or a desk audit on a percentage of the amount the insurer,  
23 pharmacy benefit manager, or other auditor is entitled to recover  
24 as the result of the audit.

25           Sec. 1301.261. CONCLUSION OF AUDIT; SUMMARY; PRELIMINARY  
26 AUDIT REPORT. (a) At the conclusion of an on-site audit or a desk  
27 audit, the auditor shall:

1           (1) provide to the pharmacist or pharmacy a summary of  
2 the audit findings; and

3           (2) allow the pharmacist or pharmacy to respond to  
4 questions and alleged discrepancies, if any, and comment on and  
5 clarify the findings.

6           (b) Not later than the 30th day after the date the audit is  
7 concluded, the auditor shall send by certified mail, return receipt  
8 requested, to the pharmacist or pharmacy a preliminary audit report  
9 stating the results of the audit, including explanations for and  
10 the amount of recoupment claimed.

11           (c) The pharmacist or pharmacy may, by providing  
12 documentation or otherwise, challenge a result or remedy a  
13 discrepancy stated in the preliminary audit report not later than  
14 the 30th day after the date the pharmacist or pharmacy receives the  
15 report.

16           Sec. 1301.262. FINAL AUDIT REPORT. Not later than the 90th  
17 day after the date the pharmacist or pharmacy receives a  
18 preliminary audit report under Section 1301.261, the auditor shall  
19 send by certified mail, return receipt requested, to the pharmacist  
20 or pharmacy a final audit report that states:

21           (1) a summary of the pharmacist's or pharmacy's  
22 explanation and documentation, if any, submitted in response to the  
23 preliminary audit report; and

24           (2) the audit results, including a description of all  
25 alleged discrepancies and explanations for and the amount of  
26 recoupments claimed after consideration of the pharmacist's or  
27 pharmacy's response to the preliminary audit report.

1       Sec. 1301.263. APPEAL OF FINAL AUDIT REPORT; AUDIT OUTCOME  
2 REPORT. (a) An auditor shall establish a process for a pharmacist  
3 or pharmacy to wholly or partly appeal a final audit report.

4       (b) An auditor shall use the National Council for  
5 Prescription Drug Programs' data interchange standards for  
6 pharmacy claim submission to evaluate audited claims and appeals  
7 under the process established under Subsection (a).

8       (c) On the date a final audit report is found wholly or  
9 partly unsubstantiated after an appeal under the process  
10 established under Subsection (a), the auditor shall reject the  
11 report, wholly or partly, as applicable.

12       (d) Not later than the 30th day after the date an appeal  
13 under the process established under Subsection (a) is concluded,  
14 the auditor shall send by certified mail, return receipt requested,  
15 to the pharmacist or pharmacy an audit outcome report that  
16 includes:

17           (1) a summary of the pharmacist's or pharmacy's  
18 arguments and documentation, if any, submitted in response to the  
19 final audit report; and

20           (2) the audit results and recoupments claimed after  
21 consideration of the pharmacist's or pharmacy's response to the  
22 final audit report.

23       Sec. 1301.264. RECOUPMENT AND INTEREST CHARGED AFTER AUDIT.  
24 If an audit under this subchapter is conducted, the insurer or  
25 pharmacy benefit manager:

26           (1) may recoup from the pharmacist or pharmacy an  
27 amount based only on a final audit report or, if appealed under the

1 process established under Section 1301.263(a), an audit outcome  
2 report; and

3 (2) may not accrue or assess interest on an amount due  
4 until the later of the date the pharmacist or pharmacy receives the  
5 final audit report or, if appealed under the process established  
6 under Section 1301.263(a), the date of the audit outcome report.

7 Sec. 1301.265. MEDIATION. (a) A pharmacist or pharmacy  
8 aggrieved by an audit outcome report may require an auditor to  
9 participate in mediation under Chapter 154, Civil Practice and  
10 Remedies Code.

11 (b) The pharmacist or pharmacy must elect mediation and  
12 notify the auditor not later than the 30th day after the date the  
13 pharmacist or pharmacy receives the audit outcome report. The  
14 mediation must be completed not later than the 90th day after the  
15 date the pharmacist or pharmacy receives the audit outcome report.

16 (c) The mediation must be conducted by a person qualified as  
17 an impartial third party under Section 154.052, Civil Practice and  
18 Remedies Code.

19 Sec. 1301.266. REMEDIES NOT EXCLUSIVE. This section may  
20 not be construed to waive a remedy at law available to a pharmacist  
21 or pharmacy.

22 Sec. 1301.267. WAIVER PROHIBITED. The provisions of this  
23 subchapter may not be waived, voided, or nullified by contract.

24 Sec. 1301.268. LEGISLATIVE DECLARATION. It is the intent  
25 of the legislature that the requirements contained in this  
26 subchapter regarding audit of claims to preferred providers who are  
27 pharmacists or pharmacies apply to all insurers and pharmacy

1 benefit managers unless otherwise prohibited by federal law.

2 SECTION 4. Section 1301.1041, Insurance Code, is  
3 transferred to Subchapter F, Chapter 1301, Insurance Code, as added  
4 by this Act, redesignated as Section 1301.252, Insurance Code, and  
5 amended to read as follows:

6 Sec. 1301.252 [~~1301.1041~~]. AUDIT OF PHARMACIST OR  
7 PHARMACY; NOTICE; GENERAL PROVISIONS. (a) An auditor [~~insurer or~~  
8 ~~a pharmacy benefit manager that administers pharmacy claims for the~~  
9 ~~insurer may not use extrapolation to complete the audit of a~~  
10 ~~preferred provider that is a pharmacist or pharmacy. An insurer~~  
11 ~~may not require extrapolation audits as a condition of~~  
12 ~~participation in the insurer's contract, network, or program for a~~  
13 ~~preferred provider that is a pharmacist or pharmacy.~~

14 [~~(b) An insurer or a pharmacy benefit manager that~~  
15 ~~administers pharmacy claims for the insurer]~~ that performs an  
16 on-site audit or a desk audit of a preferred provider who is a  
17 pharmacist or pharmacy shall provide the provider reasonable notice  
18 of the audit and accommodate the provider's schedule to the  
19 greatest extent possible. The notice required under this  
20 subsection must be in writing and must be sent by certified mail to  
21 the preferred provider not later than the 15th day before the date  
22 on which the on-site audit is scheduled to occur.

23 (b) Not later than the seventh day after the date a  
24 pharmacist or pharmacy receives notice under Subsection (a), the  
25 pharmacist or pharmacy may reschedule an on-site audit or a desk  
26 audit to a date not later than the 14th day after the date the audit  
27 is initially scheduled. On agreement of the pharmacist or pharmacy



1 and the auditor, the audit may be rescheduled to a date after the  
2 14th day after the date the audit is initially scheduled.

3 (c) Unless the pharmacist or pharmacy consents in writing,  
4 an auditor may not schedule or have an on-site audit or a desk audit  
5 conducted:

6 (1) before the 30th day after the date the pharmacist  
7 or pharmacy receives notice under Subsection (a);

8 (2) more than once annually; or

9 (3) during the first seven calendar days of a month.

10 (d) A pharmacist or pharmacy may be required to submit  
11 documents in response to a desk audit not earlier than the 30th day  
12 after the date the auditor requests the documents.

13 (e) A contract between a pharmacist or pharmacy and an  
14 insurer or a pharmacy benefit manager must state detailed audit  
15 procedures. If an insurer or pharmacy benefit manager proposes a  
16 change to the audit procedures for an on-site audit or a desk audit,  
17 the insurer or pharmacy benefit manager must notify the pharmacist  
18 or pharmacy in writing of a change in an audit procedure not later  
19 than the 60th day before the effective date of the change.

20 (f) The list of the claims subject to audit must be provided  
21 in the notice under Subsection (a) to the pharmacist or pharmacy and  
22 may identify the claims only by the prescription numbers or a date  
23 range for prescriptions subject to the audit.

24 (g) If the auditor:

25 (1) in an on-site audit or a desk audit applies random  
26 sampling procedures to select claims for audit, the sample size may  
27 not be greater than 50 individual prescription claims; or

1           (2) conducts an on-site audit or a desk audit related  
2 to a specific issue, the number of individual prescription claims  
3 subject to the audit may not be greater than 50 and, notwithstanding  
4 Subsection (f), may be identified only by prescription number.

5           (h) After an audit is initiated, a pharmacist or pharmacy  
6 may electronically resubmit a disputed claim if the deadline for  
7 submission of a claim under Section 1301.102 has not expired.

8           SECTION 5. The changes in law made by this Act apply only to  
9 contracts between a pharmacist or pharmacy and a health maintenance  
10 organization, an insurer, or a pharmacy benefit manager executed or  
11 renewed, and audits conducted under those contracts, on or after  
12 the effective date of this Act. A contract entered into or renewed,  
13 and audits conducted under those contracts, before the effective  
14 date of this Act are governed by the law in effect immediately  
15 before the effective date of this Act, and that law is continued in  
16 effect for that purpose.

17           SECTION 6. This Act takes effect September 1, 2013.