

BILL ANALYSIS

Senate Research Center
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H.B. 1455
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1455 protects independent pharmacies in Texas from overreaching audit practices by pharmacy benefit managers (PBMs) attempting to unnecessarily penalize these small businesses for legitimate claims based on administrative technicalities.

PBMs conduct audits on pharmacies in which they request all drug purchase records for a specific period, typically within a 12-month timeframe. These audits are intended to verify that the quantity and National Drug Code identification number of drugs dispensed by and billed for by the pharmacy are supported by its purchasing records with drug wholesalers.

However, interested parties have raised concerns that more and more PBMs are using these audits to recoup damages from a pharmacy based on technical discrepancies that have no health impact on the patient or financial impact on the reimbursement amount. These audits can financially penalize audited pharmacies for technical discrepancies arising from legitimate differences between quantities or drug codes stated on a wholesale invoice and those stated on the dispensed prescription or the submitted claim for that prescription.

To address these issues, H.B. 1455 would reduce these audit practices by requiring health benefit plans and PBMs to accept as evidence certain documentation that shows the quantity of dispensed drugs matches the quantity purchased from wholesalers.

H.B. 1455 amends current law relating to the audit of wholesale invoices during certain audits of pharmacists and pharmacies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter F, Chapter 1369, Insurance Code, by adding Section 1369.2581, as follows:

Sec. 1369.2581. AUDIT DISCREPANCIES; WHOLESALE INVOICES. (a) Prohibits a health benefit plan issuer or pharmacy benefit manager that audits wholesale invoices during an audit of a pharmacist or pharmacy from auditing the pharmacy claims of another health benefit plan or pharmacy benefit manager.

(b) Requires a health benefit plan issuer or pharmacy benefit manager to reverse a finding of a discrepancy if:

(1) the National Drug Code for the dispensed drug is in a quantity that is a subunit or multiple of the drug purchased by the pharmacist or pharmacy as supported by a wholesale invoice;

(2) the pharmacist or pharmacy dispensed the correct quantity of the drug according to the prescription; and

(3) the drug dispensed by the pharmacist or pharmacy shares all but the last two digits of the National Drug Code of the drug reflected on the supplier invoice.

(c) Requires a health benefit plan issuer or pharmacy benefit manager to accept as evidence to support the validity of a pharmacy claim related to a dispensed drug:

(1) subject to validation, including validation by pharmacy purchase order and payment of a supplier invoice, copies of supplier invoices in the pharmacist's or pharmacy's possession, including:

(A) supplier invoices issued before the date the drug was dispensed and not earlier than 60 days before the first day of the audit period; and

(B) invoices and any supporting documents from any supplier authorized by federal or state law to transfer ownership of the drug acquired by the pharmacist or pharmacy; and

(2) reports required by any state board or agency.

(d) Requires a health benefit plan issuer or pharmacy benefit manager to provide, not later than the fifth business day after the date of a request by the pharmacist or pharmacy, any supporting documents the pharmacist's or pharmacy's suppliers provided to the health benefit plan issuer or pharmacy benefit manager.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2019.