

By: Buckingham

S.B. No. 692

A BILL TO BE ENTITLED

AN ACT

relating to the audit of wholesale invoices during certain audits of pharmacists and pharmacies.

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

SECTION 1. Subchapter F, Chapter 1369, Insurance Code, is amended by adding Section 1369.2581 to read as follows:

Sec. 1369.2581. AUDIT DISCREPANCIES; WHOLESALE INVOICES.

(a) A health benefit plan issuer or pharmacy benefit manager that audits wholesale invoices during an audit of a pharmacist or pharmacy may not audit the pharmacy claims of another health benefit plan or pharmacy benefit manager.

(b) A health benefit plan issuer or pharmacy benefit manager shall 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; and

(3) the dispensed drug is identical in strength and dosage to the drug purchased by the pharmacist or pharmacy from the wholesaler.

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

1 (1) copies of supplier invoices in the pharmacist's or
2 pharmacy's possession, including:

3 (A) supplier invoices issued before the date the
4 drug was dispensed; and

5 (B) invoices from any supplier authorized to
6 transfer ownership of the drug acquired by the pharmacist or
7 pharmacy; and

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

9 (d) A health benefit plan issuer or pharmacy benefit manager
10 must provide, not later than the fifth business day after a request
11 by the pharmacist or pharmacy, any supporting documents the
12 pharmacist's or pharmacy's suppliers provided to the health benefit
13 plan issuer or pharmacy benefit manager.

14 (e) A health benefit plan issuer or pharmacy benefit manager
15 may not recoup any amount based on a wholesale invoice discrepancy
16 regarding the patient's receipt of a dispensed drug if the audited
17 pharmacy claim is supported by records of the pharmacist or
18 pharmacy showing that the patient or patient's agent received the
19 dispensed drug underlying the audited pharmacy claim.

20 SECTION 2. The changes in law made by this Act apply only to
21 an audit conducted under a contract between a pharmacist or
22 pharmacy and a health benefit plan issuer or pharmacy benefit
23 manager entered into, amended, or renewed on or after the effective
24 date of this Act.

25 SECTION 3. This Act takes effect September 1, 2019.