Senate Health & Welfare – February 21, 2017

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"Pharmacy Rights During Audit" (S.200) 2011-2012 Session

http://legislature.vermont.gov/assets/Documents/2012/Docs/ACTS/ACT150/ACT150%20As%20Enacted.pdf

<u>18 V.S.A.§ 3802. PHARMACY RIGHTS DURING AN AUDIT</u>

Notwithstanding any provision of law to the contrary, whenever a health insurer, a third-party payer, or an entity representing a responsible party conducts an audit of the records of a pharmacy, the pharmacy shall have a right to all of the following:

(1) To have an audit involving clinical or professional judgment be conducted by a pharmacist licensed to practice pharmacy in one or more states, who has at least a familiarity with Vermont pharmacy statutes and rules and who is employed by or working with an auditing entity.

(2) <u>All payment data related to audited claims, including payment amount, date of electronic payment or check date, the specific contracted payment metrics for each claim including cost basis values such as MAC, WAC, AWP or AMP.</u>

~~(2)~~ <u>(3)</u> If an audit is to be conducted on-site at a pharmacy, the entity conducting the audit:

(A) shall give the pharmacy at least 14 days' advance written notice of the audit and the specific prescriptions to be included in the audit; and

(B) may not audit a pharmacy on Mondays or on weeks containing a federal holiday, unless the pharmacy agrees to alternative timing for the audit.

~~(3)~~ <u>(4)</u> Not to have an entity audit claims that:

(A) were submitted to the pharmacy benefit manager more than 18 months prior to the date of the audit, unless:

(i) required by federal law; or

(ii) the originating prescription was dated within the 24-month period preceding the date of the audit; or

(B) exceed 200 selected prescription claims <u>for on-site audits, or five selected prescription claims for desk or remote audits</u>.

"MAC Transparency" (S.139)   2015-2016 Session

http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT054/ACT054%20As%20Enacted.pdf

<u>18 V.S.A. § 9473 PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO PHARMACIE</u>S

(c) For each drug for which a pharmacy benefit manager establishes a maximum allowable cost in order to determine the reimbursement rate, the pharmacy benefit manager shall do all of the following:

(1) Make available, in a format that is readily accessible and understandable by a pharmacist, the actual maximum allowable cost for each drug and the source used to determine the maximum allowable cost.

(2) Update the maximum allowable cost at least once every seven calendar days. In order to be subject to maximum allowable cost, a drug must be widely available for purchase by all pharmacies in the State, without limitations, from national or regional wholesalers and must not be obsolete or temporarily unavailable.

(3) Establish or maintain a reasonable administrative appeals process to allow a dispensing pharmacy provider to contest a listed maximum allowable cost.

(4) Respond in writing to any appealing pharmacy provider within 10 calendar days after receipt of an appeal, provided that a dispensing pharmacy provider shall file any appeal within 10 calendar days from the date its claim for reimbursement is adjudicated.

<u>(5) Pharmacies should be given rights to appeal beyond the 10 calendar days in the event the prescription claim is subject to an audit initiated by the PBM or its auditing agent.</u>

<u>(6) If the appeal is denied, the pharmacy benefit manager shall:(i) Provide the reason for the denial; and (ii) Identify the national drug code of a drug product that may be purchased by contracted pharmacies at a price at or below the maximum allowable cost; and, if the appeal is granted, the pharmacy benefit manager shall within 30 business days after granting the appeal, make the change in the maximum allowable cost.</u>

"Provider Status" (S.243) 2015-2016 Session

http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT173/ACT173%20As%20Enacted.pdf