Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

HB 1737

Brief Description: Concerning the department of social and health services' audit program for pharmacy payments.

Sponsors: Representatives Short, Seaquist and Schmick.

Brief Summary of Bill

- Establishes standards for pharmacy audits under the medical care services programs as related to notice, supplemental documentation, and audit findings.

Hearing Date: 2/14/11

Staff: Chris Blake (786-7392).

Background:

State medical assistance programs pay for health care for low-income state residents, primarily through the Medicaid program. These programs are administered by the Department of Social and Health Services (DSHS). Most of these programs are jointly funded with state and federal matching funds.

Audits of Providers Under State Medical Assistance Programs.

Statutory Audit Requirements.

The DSHS is authorized to conduct audits and investigations of providers of health services to beneficiaries under the state medical assistance programs that it administers. To discover the provider's usual or customary charges, the DSHS may examine random representative records as necessary to show accounts billed and received. If an overpayment is discovered, it may be offset by underpayments also discovered in the same audit sample.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

If an audit shows an overpayment, the DSHS must give notice to the provider demanding that the overpayment be paid within 20 days. The provider may request a hearing if the request is filed within 28 days of the notice.

Audit Requirements Under DSHS Rules.

Providers must enter into agreements with DSHS to be approved as a provider. They must keep legible, accurate, and complete records to justify the services for which payment is claimed. Records must be available for six years from the date of service, unless state or federal law requires a longer period. Audits may be conducted either on-site or by a desk audit or a combination of the two. Providers are to be given 10 days advance notice of an on-site audit. They may be performed on a per-claim basis or by using a probability sample. If a sample is used, it must meet recognized and generally accepted sampling methods and must ensure a minimum 95 percent confidence level when projecting an overpayment.

On completion of an audit, the provider has 30 days to locate and provide any missing records. After the 30 day period, a draft audit report is issued. Within 30 days, unless the time is extended, the provider may comment on the draft audit report or submit additional information. A dispute conference may also be requested. A final audit report may be appealed as provided by law.

Federal Audit Requirements for Medicaid.

Federal law requires each state administering a Medicaid program to establish and maintain an adequate internal control structure to ensure that Medicaid is administered in compliance with federal law. This control structure must be part of the approved state plan required to receive federal funding. Various government audit requirements establish the standards that the state must meet, including ensuring the propriety of expenditures reported for federal matching funds.

State auditors also review Medicaid expenditures annually under the federal Single Audit Act of 1984. States must ensure both proper payment and recovery of overpayments for unallowable claims.

Summary of Bill:

Audits of pharmacy records performed by the Department of Social and Health Services (DSHS) under its administration of the medical care services programs must meet certain standards related to notice of an audit, supplemental documentation, and audit findings.

- Initial audits may not begin earlier than 30 days prior to the date that notice of the audit was provided to the pharmacy. Audit results that violate this may not be used in any audit findings.
- An audited pharmacy may use the written records of a hospital, physician, or other pharmacy to validate its records. An audited pharmacy must have at least 90 days from the delivery of the draft audit findings to respond with additional documentation.
- A finding of overpayment may not be based upon technical deficiencies if the pharmacy can demonstrate that the services or goods were provided to the patient and the technical deficiency did not affect patient care. This does not apply in cases in which the recovery

of the overpayment is required by law or that will result in the loss of federal matching funds or other penalties against the state. A "technical deficiency" is an omission in documentation by a pharmacy that does not affect the patient's direct care or receipt of services or any element of an allowable cost. "Technical deficiencies" do not include fraud, patterns of abusive billing or noncompliance, or gross or flagrant violations.

The act applies retroactively to audits that the DSHS began on or after April 1, 2011.

It is the stated intent of the Legislature that the DSHS's regulatory and inspection program include a systemic method for gathering data for program improvement.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.