
HOUSE BILL 1737

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Short, Seaquist, and Schmick

Read first time 02/01/11. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to the department of social and health services'
2 audit program for pharmacy payments; amending RCW 74.09.200; adding a
3 new section to chapter 74.09 RCW; and creating new sections.

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

5 **Sec. 1.** RCW 74.09.200 and 1979 ex.s. c 152 s 1 are each amended to
6 read as follows:

7 (1) The legislature finds and declares it to be in the public
8 interest and for the protection of the health and welfare of the
9 residents of the state of Washington that a proper regulatory and
10 inspection program be instituted in connection with the providing of
11 medical, dental, and other health services to recipients of public
12 assistance and medically indigent persons. In order to effectively
13 accomplish such purpose and to assure that the recipient of such
14 services receives such services as are paid for by the state of
15 Washington, the acceptance by the recipient of such services, and by
16 practitioners of reimbursement for performing such services, shall
17 authorize the secretary of the department of social and health services
18 or his designee, to inspect and audit all records in connection with
19 the providing of such services.

1 (2) It is the intent of the legislature that the regulatory and
2 inspection program authorized in this section shall include a
3 systematic method to gather data for program improvement.

4 NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW
5 to read as follows:

6 (1) Audits under this chapter of the records of pharmacies licensed
7 under chapter 18.64 RCW are subject to the following:

8 (a) An initial audit may not commence earlier than thirty days
9 prior to the date on which written notice of the audit is given to the
10 pharmacy. The notice must be provided to the physical location at
11 which the audit will be conducted and to the principal office or place
12 of business of the pharmacy, if different, and must include the name,
13 office address, and telephone number of any contractor conducting the
14 audit pursuant to a contract with the department. Audit findings
15 resulting from audit work that is commenced before the thirty-day
16 period may not be used in any audit findings;

17 (b) Technical deficiencies may not be the basis for finding an
18 overpayment if the pharmacy can substantiate through documentation that
19 the services or goods were provided to the recipient and that the
20 technical deficiency did not adversely affect direct patient care of
21 the recipient, unless recoupment of the payment is specifically
22 mandated in state or federal law or rule or failure to recoup payment
23 will result in the loss of federal matching funds or other penalty
24 against the state;

25 (c) An audited pharmacy may use the written records of a hospital,
26 physician, or other authorized pharmacy to validate the audited
27 pharmacy's record; and

28 (d) The pharmacy must have at least ninety days from the date on
29 which the draft audit findings were delivered to the pharmacy to
30 respond with additional documentation or other relevant information.
31 Extensions of these time periods shall be granted for good cause.

32 (2) This section does not apply to an audit that is based on an
33 investigation for fraudulent or abusive practices under RCW 74.09.210.

34 (3) For the purposes of this section "technical deficiency" means
35 an omission in documentation by a pharmacy that does not affect direct
36 patient care of, or receipt of services by, the recipient, or affects
37 any elements of an allowable cost. In order for cost to be allowable,

1 the medical cost must be: (a) Covered by the state plan and waivers;
2 (b) supported by the medical records indicating that the service was
3 provided and consistent with the medical order or condition; and (c)
4 paid at the rate allowed by the state plan. "Technical deficiency"
5 does not include fraud, a pattern of abusive billing or noncompliance,
6 or a gross or flagrant violation.

7 NEW SECTION. **Sec. 3.** The secretary of the department of social
8 and health services may adopt rules as necessary to implement this act.

9 NEW SECTION. **Sec. 4.** Section 2 of this act applies retroactively
10 to audits commenced by the department of social and health services
11 under chapter 74.09 RCW on or after April 1, 2011.

12 NEW SECTION. **Sec. 5.** If any part of this act is found to be in
13 conflict with federal requirements that are a prescribed condition to
14 the allocation of federal funds to the state, the conflicting part of
15 this act is inoperative solely to the extent of the conflict and with
16 respect to the agencies directly affected, and this finding does not
17 affect the operation of the remainder of this act in its application to
18 the agencies concerned. Rules adopted under this act must meet federal
19 requirements that are a necessary condition to the receipt of federal
20 funds by the state.

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