



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [S.B. 258 of the 130th G.A.](#)

Date: February 3, 2014

Status: As Introduced

Sponsor: Sen. Balderson

Local Impact Statement Procedure Required: No

Contents: To establish standards for the performance of pharmacy audits

State Fiscal Highlights

- It is possible that fewer recoupments would be paid from pharmacies in state hospitals. However, the Ohio Hospital Association anticipates any such impact to be minimal. On the other hand, according to the Department of Medicaid, it is possible that the state could receive fewer recoupments.

Local Fiscal Highlights

- It is possible that fewer recoupments would be paid from local government pharmacies, such as pharmacies within county hospitals. However, the Ohio Hospital Association anticipates any such impact to be minimal.

Detailed Fiscal Analysis

Conducting an audit

The bill requires an auditing entity to give the pharmacy written notice of the date or dates on which the audit will be performed and the range of prescription numbers from which the auditing entity will select to audit. Further, the bill requires that the notice be given not less than ten business days prior to the audit. The bill also specifies that the audit is not to be performed during the first five business days of the month unless the pharmacy to be audited consents. The bill also specifies that an auditing entity is not to include a review of a claim for payment for the provision of dangerous drugs or pharmacy services that occurred two years before the date the audit commences.

The bill specifies that an auditing entity or payer is prohibited from seeking to recoup from a pharmacy any amount that the audit identifies as being the result of a clerical or record keeping error, absent an indication that there was an error in the actual dispensing of a drug (e.g., a drug was dispensed to the incorrect patient, etc.). Additionally the bill prohibits an auditing entity from using extrapolation when calculating a monetary penalty to be imposed or amount to be recouped as a result of the pharmacy audit (the provision does not apply unless it is required by state or federal law).

The bill specifies that certain conditions do not apply if the auditing entity has evidence indicating fraud or other intentional or willful misrepresentation exists. The auditing entity is to follow these standards for audits conducted on or after April 1, 2014.

Pharmacy rights

The bill authorizes a pharmacy to do any of the following when an audit is being performed: validate a pharmacy record by using original or photocopied records from hospitals, physicians, or other health care provider; validate one or more claims for payment as specified in the bill; and resubmit a disputed or denied claim for payment using any commercially reasonable method of resubmission as long as the time period for resubmissions has not expired.

After the audit

The bill establishes requirements that apply after an audit has been conducted. However, the bill specifies that these conditions do not apply if the auditing entity has evidence indicating fraud or other intentional or willful misrepresentation exists. One requirement is that the auditing entity must deliver a preliminary audit report to the pharmacy no later than 60 business days after the audit has been completed. A pharmacy that disputes any finding in the preliminary audit report may submit documentation to the auditing entity to appeal the finding. The pharmacy has no less

than 30 business days to make this submission and may request an extension. Each auditing entity is to establish in writing separate procedures for a pharmacy to appeal one or more findings in the report. The final audit report is to be delivered to the pharmacy not later than 120 business days after a pharmacy's receipt of a preliminary audit report unless a time extension has been given. If this occurs, the final report is to be delivered no later than 120 days after the pharmacy's submission of the documentation.

Direct fiscal effects

It is possible that fewer recoupments would be paid from pharmacies in state and county hospitals. However, the Ohio Hospital Association anticipates any such impact to be minimal. On the other hand, according to the Department of Medicaid, it is possible that the state could receive fewer recoupments.

Indirect fiscal effects

State and local government employee health plans could realize a reduction in the amounts recouped from audit findings. To the extent that audit findings impact rates, governments could experience benefit cost increases.