

2019 Regular Session

HOUSE BILL NO. 538

BY REPRESENTATIVE LEBAS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PHARMACISTS: Provides relative to pharmacy record audits

1 AN ACT

2 To amend and reenact R.S. 22:1856.1(B)(introductory paragraph), (2), (3), (7)(b), and (8),
3 (D)(1)(introductory paragraph) and (2)(introductory paragraph), and (F), to enact
4 R.S. 22:1856.1(D)(3), and to repeal R.S. 22:1856.1(G)(3) and (4), relative to
5 pharmacy record audits; to provide for applicability of laws relative to such audits;
6 to provide relative to procedures for such audits; to repeal provisions relative to
7 onsite audits; to provide relative to audits conducted by or in consultation with
8 licensed pharmacists; to provide limitations on recoupment of reimbursements paid
9 to pharmacists; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 22:1856.1(B)(introductory paragraph), (2), (3), (7)(b), and (8),
12 (D)(1)(introductory paragraph) and (2)(introductory paragraph), and (F) are hereby amended
13 and reenacted and R.S. 22:1856.1(D)(3) is hereby enacted to read as follows:

14 §1856.1. Pharmacy record audits; recoupment; appeals

15 * * *

16 B. Notwithstanding any other provision of law to the contrary, when an
17 ~~onsite~~ audit of the records of a pharmacy is conducted by an entity, the audit shall
18 be conducted in accordance with the following criteria:

19 * * *

1 (2) No entity shall conduct an ~~on-site~~ audit at a particular pharmacy more
2 than one time annually. However, the provisions of this Paragraph shall not apply
3 when an entity must return to a pharmacy to complete an audit already in progress,
4 or there is an identified history of errors, an identified activity which a reasonable
5 man would believe to be inappropriate, or illegal activity that the entity has brought
6 to the attention of the pharmacy owner or corporate headquarters of the pharmacy.

7 (3)(a) The entity or any vendor or subcontractor of the entity which conducts
8 the initial ~~onsite~~ audit shall give the pharmacy notice at least two weeks before
9 conducting the initial ~~onsite~~ audit for each audit cycle.

10 (b) If the audit, review, or investigation is initiated based on or involves
11 alleged fraud or willful misrepresentation, notice before the initial ~~on-site~~ audit is not
12 mandatory where it could impede the audit, review, or investigation.

13 * * *

14 (7)

15 * * *

16 (b) A pharmacy shall be allowed at least thirty days following receipt of the
17 preliminary audit report in which to initiate an appeal to address any discrepancy
18 found during an ~~on-site~~ audit, as provided in Subsection E of this Section.

19 * * *

20 (8) Any audit ~~which involves clinical judgment~~ of a pharmacy with its
21 principal place of business in this state shall be conducted by ~~or in consultation with~~
22 a ~~licensed~~ pharmacist licensed in Louisiana.

23 * * *

24 D.(1) No pharmacy shall be subject to recoupment of any portion of the
25 reimbursement for the dispensed product of a prescription unless one or more of the
26 following has occurred at the point of adjudication:

27 * * *

28 (2) Recoupment of claims shall be based on the actual financial harm to the
29 entity, or on the actual overpayment or underpayment, at the point of adjudication.

Present law provides that no pharmacy be subject to recoupment of any portion of the reimbursement for the dispensed product of a prescription unless one or more conditions occur.

Proposed law changes present law by requiring that the condition occur at the point of adjudication.

Present law provides that recoupment of claims be based on the actual financial harm to the entity, or on the actual overpayment or underpayment.

Proposed law changes present law by requiring that such financial harm exist at the point of adjudication.

Proposed law provides that if any entity determines that the processed or adjudicated claim of a pharmacy qualifies for recoupment based upon the use of a manufacturer coupon or copay card, such recoupment shall come from the beneficiary of the reduction.

Present law provides that present law does not apply to any federally funded activity, specifically preempted by law or rule or any audit conducted pursuant to the participation of a pharmacy in the Louisiana Medicaid Program. Proposed law repeals present law.

(Amends R.S. 22:1856.1; Adds R.S. 22:1856.1(D)(3); Repeals 22:1856.1(G)(3) and (4))