



ARIZONA STATE SENATE
Fifty-Sixth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1165

pharmacy audit; procedures; prohibition

Purpose

Prohibits a pharmacy benefit manager (PBM) from reimbursing a nonaffiliated pharmacy in an amount less than the amount reimbursed for an affiliated pharmacy for providing the same product. Prescribes requirements for a wholesale invoice audit and establishes a reporting requirement.

Background

The Department of Insurance and Financial Institutions (DIFI) regulates and monitors insurance companies and professionals operating in Arizona to protect the public and help ensure that these entities follow Arizona and federal laws ([Ariz. Const. art. 15 § 5](#)). Beginning January 1, 2025, PBMs must apply and pay a fee to DIFI for a valid certificate of authority to operate as a PBM who performs services for a health plan subject to state jurisdiction ([A.R.S. § 20-3333](#)).

A *PBM* is a person, business or entity that, either directly or through an intermediary, manages the prescription drug coverage provided by a contracted insurer or other third-party payor, including the processing and payment of claims for prescription drugs, the performance of drug utilization review, the processing of drug prior authorization requests, the adjudication of appeals or grievances related to prescription drug coverage, contracting with network pharmacies and controlling the cost of covered prescription drugs ([A.R.S. § 20-3321](#)).

PBMs are charged with: 1) updating price and drug information for each list that the PBM maintains; 2) making the sources used to determine maximum allowable cost pricing available to each network pharmacy at the beginning of a contract or upon renewal; 3) establishing a process for network pharmacies to appeal its reimbursement for any drug subject to maximum allowable cost pricing; and 4) allowing a contracted pharmacy services organization to file an appeal of a drug on behalf of the organization's contracted pharmacies ([A.R.S. § 20-3331](#)).

Statute prescribes procedures for in-person and desktop audits performed by an auditing entity. An *auditing entity* is any person, company, group or plan working on behalf of or pursuant to a contract with an insurer or PBM for the purposes of auditing pharmacy drug claims adjudicated by pharmacies ([A.R.S. § 20-3322](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits a PBM from reimbursing a nonaffiliated pharmacy in an amount less than the amount reimbursed for an affiliated pharmacy for providing the same product.

2. Requires a PBM to submit an annual report to the Director of DIFI that details the difference in reimbursement amounts paid to an affiliated pharmacy and a nonaffiliated pharmacy for providing the same product.
3. Requires an auditing entity, when conducting a wholesale invoice audit, to:
 - a) not audit the pharmacy claims of another auditing entity;
 - b) reverse a finding of discrepancy if:
 - i. the pharmacist or pharmacy dispensed the correct quantity of the drug according to the prescription;
 - ii. the National Drug Code (NDC) published by the U.S. Food and Drug Administration (FDA) is in a quantity that is a subunit or multiple of the drug purchased by the pharmacist or pharmacy according to the supplier invoice; and
 - iii. the drug dispensed by the pharmacist or pharmacy shares all but the last two digits of the FDA's NDC of the drug reflected on the supplier invoice;
 - c) as a presumption of validity of a purchase of a dispensed drug, accept any of the following to support the pharmacy's claim related to a dispensed drug:
 - i. copies of the supplier invoices in the pharmacist's or pharmacy's possession, including any supplier invoices issued before the date the drug was dispensed but not earlier than 90 days before the first day of the audit period and any other invoices and supporting documentation authorized by federal or state law to transfer ownership of a drug to the pharmacist or pharmacy; or
 - ii. any reports required by a state board or agency; and
 - d) provide any supporting documentation that the pharmacy supplier provided to the auditing entity by the fifth business day after receiving the pharmacy's request.
4. Defines *affiliated pharmacy* as a network pharmacy that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with a PBM.
5. Makes technical changes.
6. Becomes effective on the general effective date.

Prepared by Senate Research

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