

Regular Session, 2012

SENATE BILL NO. 534

BY SENATOR MILLS

HEALTH/ACC INSURANCE. Provides relative to licensed pharmacists. (8/1/12)

1 AN ACT

2 To amend and reenact R.S. 22:1852, 1857, and 1859, relative to pharmacy and pharmacist
3 claims; to provide relative to prescription drugs and recoupment of health insurance
4 claims payments; to provide with respect to licensed pharmacists; to allow licensed
5 pharmacists forty-five days to appeal a health insurance issuer's recoupment
6 notification; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1852, 1857, and 1859 are hereby amended and reenacted to read
9 as follows:

10 §1852. Definitions

11 As used in this Subpart, the following terms shall be defined as follows:

12 (1) "Claim" means a request by a **licensed** pharmacist for payment by a
13 health insurance issuer.

14 (2) "Commissioner" means the commissioner of insurance.

15 (3) "Department" means the Department of Insurance.

16 (4) "Electronic claim" means the transmission of data for purposes of
17 payment of covered prescription drugs, other products and supplies, and **licensed**

1 pharmacist services in an electronic data format specified by a health insurance
2 issuer and approved by the department.

3 (5) "Enrollee" or "insured" means an individual who is enrolled or insured
4 by a health insurance issuer for health insurance coverage.

5 (6) "Health insurance coverage" means benefits consisting of prescription
6 drugs, other products and supplies, and **licensed** pharmacist services provided
7 directly, through insurance or reimbursement, or otherwise and including items and
8 services paid for as prescription drugs, other products and supplies, and **licensed**
9 pharmacist services under any hospital or medical service policy or certificate,
10 hospital or medical service plan contract, preferred provider organization agreement,
11 or health maintenance organization contract offered by a health insurance issuer.
12 However, "health insurance coverage" shall not include benefits due under Chapter
13 10 of Title 23 of the Louisiana Revised Statutes of 1950.

14 (7) "Health insurance issuer" means an insurance company, including a
15 health maintenance organization as defined and licensed pursuant to Subpart I of Part
16 I of Chapter 2 of this Title, unless preempted as an employee benefit plan under the
17 Employee Retirement Income Security Act of 1974. For purposes of this Subpart, a
18 "health insurance issuer" shall include the Office of Group Benefits.

19 (8) "**Licensed** Pharmacist" means an individual currently licensed as a
20 pharmacist by the Louisiana Board of Pharmacy to engage in the practice of
21 pharmacy in this state.

22 (9) "Pharmacist services" means the filling and dispensing of prescription
23 drugs or providing products and supplies, drug therapy, and other patient care
24 services provided by a licensed pharmacist with the intent of achieving outcomes
25 related to the cure, prevention, or management of a disease, elimination or reduction
26 of patient's symptoms, or arresting or slowing of a disease process.

27 (10) "Pharmacy" or "pharmacies" means any appropriately licensed place
28 within this state where prescription drugs are dispensed and **licensed** pharmacist
29 services are provided and any place outside of this state where prescription drugs are

1 dispensed and **licensed** pharmacist services are provided to residents of this state.

2 (11) "Remittance advice" means a written or electronic communication
3 explaining the health insurance issuer's action on each claim adjudicated by the
4 issuer. Such communication is sent by a health insurance issuer or its agent to a retail
5 or mail order **licensed** pharmacist or his agent or retail or mail order pharmacy or its
6 agent.

7 (12) "Uniform claim form" shall mean a form prescribed by rule by the
8 department pursuant to R.S. 22:1824.

9 * * *

10 §1857. Prescription drugs, products, and supplies; use of index

11 A. Reimbursement under a contract to a **licensed** pharmacist or pharmacy
12 for prescription drugs and other products and supplies that is calculated according
13 to a formula that uses a nationally recognized reference in the pricing calculation
14 shall use the most current nationally recognized reference price or amount in the
15 actual or constructive possession of the health insurance issuer, its agent, or any
16 other party responsible for reimbursement for prescription drugs and other products
17 and supplies on the date of service shown on the claim.

18 B. Health insurance issuers, their agents, and other parties responsible for
19 reimbursement for prescription drugs and other products and supplies shall be
20 required to update the nationally recognized reference prices or amounts used for
21 calculation of reimbursement for prescription drugs and other products and supplies
22 no less than every three business days.

23 C. Any health insurance issuer, agent, or other party responsible for
24 reimbursement for prescription drugs and other products and supplies that does not
25 comply with the requirements of Subsection A or B of this Section shall be subject
26 to the **total** late payment adjustment provisions of R.S. 22:1854(C) to the extent of
27 any amount not paid in accordance with the requirements of this Section.

28 * * *

29 §1859. Recoupment of health insurance claims payments

1 A. As used in this Section, "recoupment" shall mean a reduction, offset,
2 adjustment, or other act to lower or lessen the payment of a claim or any other
3 amount owed to a pharmacy or **licensed** pharmacist for any reason unrelated to that
4 claim or other amount owed to a pharmacy or **licensed** pharmacist.

5 B. Prior to any recoupment unrelated to a claim for payment of prescription
6 drugs, other products and supplies, and pharmacist services provided by a pharmacy
7 or **licensed** pharmacist or any other amount owed by a health insurance issuer to a
8 pharmacy or **licensed** pharmacist, the health insurance issuer shall provide the
9 pharmacy or **licensed** pharmacist written notification that includes the name of the
10 patient, the date or dates of provision of prescription drugs, other products and
11 supplies, and **licensed** pharmacist services, and an explanation of the reason for
12 recoupment. A pharmacy or **licensed** pharmacist shall be allowed ~~thirty~~ **forty-five**
13 days from receipt of written notification of recoupment to appeal the health
14 insurance issuer's action and to provide the health insurance issuer the name of the
15 patient, the date or dates of provision of prescription drugs, other products and
16 supplies, **licensed** pharmacist services, and an explanation of the reason for the
17 appeal.

18 C.(1) When a pharmacy or **licensed** pharmacist fails to respond timely and
19 in writing to a health insurance issuer's written notification of recoupment, the health
20 insurance issuer may consider the recoupment accepted.

21 (2) If a recoupment is accepted, the pharmacy or **licensed** pharmacist may
22 remit the agreed amount to the health insurance issuer at the time of any written
23 notification of acceptance or may permit the health insurance issuer to deduct the
24 agreed amount from future payments due to the pharmacy or **licensed** pharmacist.

25 D.(1) If a pharmacy or **licensed** pharmacist disputes a health insurance
26 issuer's written notification of recoupment and a contract exists between the
27 pharmacy or **licensed** pharmacist and the health insurance issuer, the dispute shall
28 be resolved according to the general dispute resolution provisions in the contract.

29 (2) If a pharmacy or **licensed** pharmacist disputes a health insurance issuer's

1 written notification of recoupment and no contract exists between the pharmacy or
2 **licensed** pharmacist and the health insurance issuer, the dispute shall be resolved as
3 any other dispute under Civil Code Article 2299 et seq.

4 E. If the recoupment directly affects the payment responsibility of the
5 insured, the health insurance issuer shall provide at the same time a revised
6 explanation of benefits to the pharmacy or **licensed** pharmacist and the covered
7 person for whose claim the recoupment is being made. Unless the recoupment of a
8 health insurance claim payment directly affects the payment responsibility of the
9 insured, such recoupment shall not result in any increased liability of an insured.

10 F. For purposes of this Section, a health insurance issuer shall include, in
11 addition to the health insurance issuer, its agent or any other party that makes
12 payment directly to a pharmacy or **licensed** pharmacist for prescription drugs, other
13 products and supplies, and **licensed** pharmacist services identified on a claim.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Cheryl Horne.

DIGEST

Proposed law changes "pharmacist" to "licensed pharmacist".

Present law requires a pharmacy or pharmacist to appeal a recoupment decision by a health insurance issuer within 30 days of receipt of written notification. Proposed law gives the pharmacy or licensed pharmacist 45 days to appeal such a decision.

Effective August 1, 2012.

(Amends 22:1852, 1857, and 1859)