

HOUSE BILL 228

By Sanderson

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 56, Chapter 7, Part 31, relative to pharmacy benefit contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Title 4, Chapter 3, Part 10, is amended by adding the following new section:

4-3-1021.

(a) The department of finance and administration shall monitor, and cause to be audited by its qualified independent auditor, the pharmacy benefit manager's compliance with the provisions of any state pharmacy benefit contract. The commissioner of the department of finance and administration shall report annually, or as requested, on the pharmacy benefits manager's contract compliance to the speakers of the senate and house of representatives and to the fiscal review committee.

(b) To assist in complying with the requirements set forth in subsection (a), the department of finance and administration shall annually perform a risk assessment to determine those areas of the contract that pose the greatest risk of noncompliance or of fraud, waste, and abuse. Upon completion of the risk assessment, the department shall incorporate the results of the risk assessment into its monitoring and auditing plan. The department shall consult with the office of the comptroller of the treasury in determining the scope and extent of the monitoring and auditing plan procedures.

(c) The monitoring and auditing plan shall be designed to examine source documentation wherever possible. The plan shall include, but not be limited to, steps for analyzing and testing of:

(1) Repricing of pharmacy claims at the drug level;

- (2) Validation of the national drug code (NDC) usage;
 - (3) Appropriateness of the nationally recognized reference prices, or average wholesale price (AWP), in accordance with § 56-7-3104;
 - (4) Eligibility of beneficiaries for pharmacy claims paid;
 - (5) Reconciliation of the pharmacy benefits manager's payments to pharmacies with the state's reimbursement to the pharmacy benefit manager;
 - (6) Recalculation of discount and dispensing fee guarantees;
 - (7) Rebate recalculation and verification of the pharmacy benefits manager's remittance of the greater of one hundred percent (100%) of the total manufacturer value or the rebate guarantee;
 - (8) Monitoring and analysis of physicians' prescriptions compared to the pharmacy benefits manager's database to determine appropriateness of claims;
- and
- (9) Consideration of other industry related risks to reduce the risk of financial losses due to fraud, waste, and abuse.

(d) The department of finance and administration shall seek appropriate remedies for contract noncompliance or from occurrences of fraud, waste, or abuse that are discovered through monitoring or audits.

(e) The department of finance and administration shall have the authority to contract with a qualified independent auditor experienced in conducting pharmacy audits for auditing the pharmacy benefit manager's compliance with any and all provisions of the contract. Contracted qualified independent auditors may not subcontract any parts of the above-described auditing plan without the express written approval by the commissioner and notification to the comptroller of the treasury.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.