



State of Tennessee
PUBLIC CHAPTER NO. 289

SENATE BILL NO. 1065

By Overbey, Haile, Stewart

Substituted for: House Bill No. 1053

By Ramsey, Shepard

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 7, Part 31, relative to Pharmacy Benefit Managers.

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

SECTION 1. This act shall be known and may be cited as the Pharmacy Benefit Integrity Act.

SECTION 2. Tennessee Code Annotated, Section 56-7-3103, is amended by adding the following as new subsections to be appropriately designated:

(d) A pharmacy provider may use any prescription that meets the requirements of being a legal prescription as defined by applicable Tennessee law to validate claims submitted for reimbursement for dispensing of original and refill prescriptions, or changes made to prescriptions.

(e) Auditors are permitted to enter the prescription department when accompanied by or authorized by a member of the pharmacy staff. During the auditing process, auditors shall not disrupt the provision of services to the pharmacy's customers.

(f) A demand for recoupment, repayment or offset against future reimbursement for an overpayment on a claim for dispensing of an original or refill prescription shall not include the dispensing fee, unless the prescription that is the subject of the claim was not actually dispensed, was not valid, was fraudulent, or was outside the provisions of the contract. This subsection shall not apply where a pharmacy is requested, pursuant to a contractual provision or to § 56-7-2362(b) or § 56-32-138(b), to correct an error in a claim submitted in good faith.

(g) Audit information from an audit conducted by one pharmacy benefits manager shall not be shared with or utilized by another pharmacy benefits manager. This subsection shall not apply to an investigative audit that is believed by the pharmacy benefits manager to involve fraud or willful misrepresentation.

(h) Unless otherwise agreed to by contract, no audit finding or demand for recoupment, repayment or offset against future reimbursement shall be made for any claim for dispensing of an original or refill prescription for the reason of information missing from a prescription or for information not placed in a particular location on a prescription when the information or location of the information is not required or specified by federal or state law.

(i) In the event the actual quantity dispensed on a valid prescription for a covered beneficiary exceeds the allowable maximum days supply of the product as defined in the applicable pharmacy benefit provider agreement, the amount allowed to be recouped, repaid or offset against future reimbursement shall be limited to an amount that is calculated based on the quantity of the product dispensed found to be in excess of the allowed days supply quantity and using the cost of the product as reflected on the original claim.

(j) A pharmacy provider shall be allowed to dispense and shall be reimbursed for the full quantity of the smallest available commercially packaged product, including, but not limited to, eye drops, insulin, and topical products, which contains the total amount that is required to be dispensed to meet the days supply ordered by the prescriber, even if the full quantity of the commercially prepared package exceeds the maximum days supply allowed.

(k) The highest daily total dose which may be utilized by the patient pursuant to the prescriber's directions shall be used to make a determination of the days supply. For

prescriptions having a titrated dose schedule, the schedule shall be used to determine the days supply.

(l) Subsections (d)-(k) of this section shall not apply to any investigative audit that involves allegations of fraud or willful misrepresentation.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect July 1, 2011, the public welfare requiring it. This act shall apply to contracts entered into on or after July 1, 2011.

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PASSED: May 16, 2011



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 27 day of May 2011



BILL HASLAM, GOVERNOR