

1 A bill to be entitled
2 An act relating to pharmacies and pharmacy benefit
3 managers; transferring, renumbering, and amending s.
4 465.1885, F.S.; revising the entities conducting
5 pharmacy audits to which certain requirements and
6 restrictions apply; authorizing audited pharmacies to
7 appeal certain findings; providing that health
8 insurers and health maintenance organizations that
9 transfer a certain payment obligation to pharmacy
10 benefit managers remain responsible for specified
11 violations; amending s. 624.490, F.S.; providing a
12 penalty for failure to register; providing an
13 effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Section 465.1885, Florida Statutes, is
18 transferred, renumbered as section 624.491, Florida Statutes,
19 and amended to read:

20 624.491 ~~465.1885~~ Pharmacy audits; ~~rights~~.—

21 (1) A health insurer or health maintenance organization
22 providing pharmacy benefits through a major medical individual
23 or group health insurance policy or a health maintenance
24 contract, respectively, shall comply with the requirements of
25 this section when the insurer or health maintenance organization

26 or any person or entity acting on behalf of the insurer or
27 health maintenance organization, including, but not limited to,
28 a pharmacy benefit manager as defined in s. 624.490, audits the
29 records of a pharmacy licensed under chapter 465. The person or
30 entity conducting such audit must ~~If an audit of the records of~~
31 ~~a pharmacy licensed under this chapter is conducted directly or~~
32 ~~indirectly by a managed care company, an insurance company, a~~
33 ~~third-party payor, a pharmacy benefit manager, or an entity that~~
34 ~~represents responsible parties such as companies or groups,~~
35 ~~referred to as an "entity" in this section, the pharmacy has the~~
36 ~~following rights:~~

37 (a) Except as provided in subsection (3), notify the
38 pharmacy ~~To be notified~~ at least 7 calendar days before the
39 initial onsite audit for each audit cycle.

40 (b) Not schedule an ~~To have the~~ onsite audit during
41 ~~scheduled after~~ the first 3 calendar days of a month unless the
42 pharmacist consents otherwise.

43 (c) Limit the duration of ~~To have~~ the audit period ~~limited~~
44 to 24 months after the date a claim is submitted to or
45 adjudicated by the entity.

46 (d) In the case of ~~To have~~ an audit that requires clinical
47 or professional judgment, conduct the audit in consultation
48 with, or allow the audit to be conducted by, ~~or in consultation~~
49 ~~with~~ a pharmacist.

50 (e) Allow the pharmacy to use the written and verifiable

51 records of a hospital, physician, or other authorized
52 practitioner, which are transmitted by any means of
53 communication, to validate the pharmacy records in accordance
54 with state and federal law.

55 (f) Reimburse the pharmacy ~~To be reimbursed~~ for a claim
56 that was retroactively denied for a clerical error,
57 typographical error, scrivener's error, or computer error if the
58 prescription was properly and correctly dispensed, unless a
59 pattern of such errors exists, fraudulent billing is alleged, or
60 the error results in actual financial loss to the entity.

61 (g) Provide the pharmacy with a copy of ~~To receive~~ the
62 preliminary audit report within 120 days after the conclusion of
63 the audit.

64 (h) Allow the pharmacy to produce documentation to address
65 a discrepancy or audit finding within 10 business days after the
66 preliminary audit report is delivered to the pharmacy.

67 (i) Provide the pharmacy with a copy of ~~To receive~~ the
68 final audit report within 6 months after receipt of ~~receiving~~
69 the preliminary audit report.

70 (j) Calculate any ~~To have~~ recoupment or penalties based on
71 actual overpayments and not according to the accounting practice
72 of extrapolation.

73 (2) ~~The rights contained in~~ This section does ~~do~~ not apply
74 to:

75 (a) Audits in which suspected fraudulent activity or other

76 intentional or willful misrepresentation is evidenced by a
77 physical review, review of claims data or statements, or other
78 investigative methods;

79 (b) Audits of claims paid for by federally funded
80 programs; or

81 (c) Concurrent reviews or desk audits that occur within 3
82 business days after ~~of~~ transmission of a claim and where no
83 chargeback or recoupment is demanded.

84 (3) An entity that audits a pharmacy located within a
85 Health Care Fraud Prevention and Enforcement Action Team (HEAT)
86 Task Force area designated by the United States Department of
87 Health and Human Services and the United States Department of
88 Justice may dispense with the notice requirements of paragraph
89 (1)(a) if such pharmacy has been a member of a credentialed
90 provider network for less than 12 months.

91 (4) Pursuant to s. 408.7057, and after receipt of the
92 final audit report issued by the health insurer or health
93 maintenance organization, a pharmacy may appeal the findings of
94 the final audit as to whether a claim payment is due and as to
95 the amount of a claim payment.

96 (5) A health insurer or health maintenance organization
97 that, under terms of a contract, transfers to a pharmacy benefit
98 manager the obligation to pay any pharmacy licensed under
99 chapter 465 for any pharmacy benefit claims arising from
100 services provided to or for the benefit of any insured or

PCS for HB 1155

2021

101 subscriber remains responsible for any violations of this
102 section.

103 Section 2. Subsection (6) of section 624.490, Florida
104 Statutes, is renumbered as subsection (7), respectively, and
105 subsection (6) is added to that section, to read:

106 624.490 Registration of pharmacy benefit managers.—

107 (6) Any person failing to register with the office while
108 operating as a pharmacy benefit manager shall be subject to a
109 fine of \$10,000 for each violation.

110 Section 3. This act shall take effect July 1, 2021.