

65-16,123. Same; procedural requirements. (a) The entity conducting the audit shall follow the following procedures:

- (1) An entity conducting an on-site audit must give the pharmacy at least seven days written notice before conducting an initial audit;
 - (2) an audit that involves clinical or professional judgment must be conducted by or in consultation with a licensed pharmacist;
 - (3) the period covered by the audit may not exceed two years from the date that the claim was submitted to or adjudicated by the entity;
 - (4) the pharmacy may request an extension not to exceed seven days from the date of an originally scheduled on-site audit;
 - (5) the pharmacy may use the records of a hospital, physician or other authorized practitioner to validate the pharmacy record;
 - (6) any legal prescription, in compliance with the requirements of the state board of pharmacy, may be used to validate claims in connection with prescriptions, refills or changes in prescriptions;
 - (7) each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies; and
 - (8) the entity conducting the audit must establish a written appeals process.
- (b) The entity conducting the audit shall also comply with the following requirements:
- (1) A finding of overpayment or underpayment must be based on the actual overpayment or underpayment and not a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs;
 - (2) the entity conducting the audit shall not use extrapolation in calculating the recoupments or penalties for audits, unless required by state or federal contracts;
 - (3) the auditing company or agent may not receive payment based on a percentage of the amount recovered, unless required by contracts; and
 - (4) interest may not accrue during the audit period.
- (c) This section shall take effect on and after July 1, 2011.

History: L. 2011, ch. 114, § 3; June 9.