

191—59.6(510B) Auditing practices.

59.6(1) An audit of the pharmacy records by a pharmacy benefits manager shall be conducted in accordance with the following:

- a.* The pharmacy benefits manager conducting the initial on-site audit must provide the pharmacy written notice at least one week prior to conducting any audit;
- b.* Any audit which involves clinical or professional judgment must be conducted by or in consultation with a pharmacist;
- c.* When a pharmacy benefits manager alleges an overpayment has been made to a pharmacy or pharmacist, the pharmacy benefits manager shall provide the pharmacy or pharmacist sufficient documentation to determine the specific claims included in the alleged overpayment;
- d.* A pharmacy may use the records of a hospital, physician or other authorized practitioner of the healing arts for drugs or medicinal supplies, written or transmitted by any means of communication, for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug;
- e.* Each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies audited by the pharmacy benefits manager;
- f.* The period covered by an audit may not exceed two years from the date on which the claim was submitted to or adjudicated by a managed care company, insurance company, third-party payor, or any pharmacy benefits manager that represents such companies, groups, or a department;
- g.* Unless otherwise consented to by the pharmacy, an audit may not be initiated or scheduled during the first seven calendar days of any month due to the high volume of prescriptions filled during that time;
- h.* The preliminary audit report must be delivered to the pharmacy within 120 days after conclusion of the audit. A final written audit report shall be received by the pharmacy within six months of the preliminary audit report or final appeal, whichever is later;
- i.* A pharmacy shall be allowed at least 30 days following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit; and
- j.* The audit criteria set forth in this subrule shall apply only to audits of claims submitted for payment after December 31, 2008.

59.6(2) Notwithstanding any other provision in this rule, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating the recuperation of contractual penalties for audits.

59.6(3) Recuperation of any disputed funds shall occur only after final disposition of the audit, including the appeals process as set forth in subrules 59.6(4) and 59.6(5).

59.6(4) Each pharmacy benefits manager conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the pharmacy benefits manager. If, following the appeal, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is unsubstantiated, the pharmacy benefits manager shall dismiss the audit report or said portion without the necessity of any further proceedings.

59.6(5) If, following the final appeal, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is found to be substantiated, the pharmacy benefits manager shall already have in place a process for an independent third-party review of the final audit findings. As part of the final appeal process of any final adverse decision, the pharmacy benefits manager shall notify the pharmacy in writing of its right to request an independent third-party review of the final audit findings and the process used to request such a review.

59.6(6) Each pharmacy benefits manager conducting an audit shall, after completion of any review process, provide a copy of the final audit report to the plan sponsor.

59.6(7) This rule shall not apply to any investigative audit which involves fraud, willful misrepresentation, abuse, or any other statutory provision which authorizes investigations relating to but not limited to insurance fraud.