

HUMAN SERVICES CODE - PHARMACY BENEFITS MANAGER AUDIT AND
OBLIGATIONS AND ABROGATING REGULATIONS

Act of Oct. 28, 2022, P.L. 1632, No. 98

Cl. 67

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No. 2022-98

HB 1630

AN ACT

Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth," in public assistance, providing for pharmacy benefits manager audit and obligations; and abrogating regulations.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code, is amended by adding a section to read:

Section 449.2. Pharmacy Benefits Manager Audit and Obligations.--(a) The Department of the Auditor General may conduct an audit and review of a pharmacy benefits manager that provides pharmacy benefits management to a medical assistance managed care organization under contract with the department. The Department of the Auditor General may review all previous audits completed by the department and shall have access to all documents it deems necessary to complete the review and audit.

(b) Any information disclosed or produced by a pharmacy benefits manager or a medical assistance managed care organization for the use of the department or the Department of the Auditor General under this section shall not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know Law."

(c) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Medical assistance managed care organization" means a Medicaid managed care organization as defined in section 1903(m)(1)(a) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396b(m)(1)(A)) that is a party to a Medicaid managed care contract with the department.

"Pharmacy benefits management" shall have the same meaning as in section 449.

"Pharmacy benefits manager" means a person, business or other entity that performs pharmacy benefits management. The term shall include any affiliated ownership of a medical assistance managed care organization that performs pharmacy benefits management.

Section 2. The following provisions of 55 Pa. Code are abrogated:

(1) Section 1153.14(1) (relating to noncovered services).

(2) Section 1223.14(2) (relating to noncovered services).

(3) Section 5230.55(c) (relating to supervision) to the extent that it requires a face-to-face meeting.

(4) Section 1121.53(c) (relating to limitations on payment) to the extent that payment for prescriptions is limited to a 34-day supply or 100 units.

(5) To the extent permitted under Federal law:

(i) Section 1249.52(a)(1) (relating to payment conditions for various services) and section 1249.53(a)(1) (relating to payment conditions for skilled nursing care) to the extent that home health services are only covered and reimbursable under the medical assistance program if a physician orders the services and establishes the plan of treatment.

(ii) Section 1249.54(a)(3) (relating to payment conditions for home health aide services) to the extent that a home health aide service is only covered and reimbursable under the medical assistance program if a physician establishes the written plan of treatment and, if skilled care is not required, certifies that the personal care services are medically necessary.

Section 3. This act shall take effect as follows:

(1) This section shall take effect immediately.

(2) Section 2 of this act shall take effect immediately.

(3) The remainder of this act shall take effect in 60 days.

APPROVED--The 28th day of October, A.D. 2022.

TOM WOLF