§ 58-50-405. Rights of a pharmacy/audits.

(a) Notwithstanding any other provision of law, whenever an auditing entity conducts an audit of the records of a pharmacy, the pharmacy has a right to all of the following:

(1) At least 14 days' advance notice of the initial on-site audit for each audit cycle.

(2) The participation of a licensed pharmacist who is employed or working under contract with the auditing entity when an audit involves clinical judgment.

(3) Clerical or record-keeping errors, including typographical errors, scrivener's errors, and computer errors, on a required document or record, in the absence of any other evidence, not to be deemed fraudulent. This subdivision does not prohibit recoupment of fraudulent payments.

(4) If required under the terms of the contract, upon request by the pharmacy to the auditing entity, the provision of all records related to the audit in an electronic format or contained in digital media.

(5) The properly documented records of a hospital or any person authorized to prescribe controlled substances for the purpose of providing medical or pharmaceutical care for patients transmitted by any means of communication in order to validate a pharmacy record with respect to a prescription or refill for a controlled substance or narcotic drug.

(6) If the audit is conducted for an identified problem, notification prior to the audit of the identifiable problem and limitation of the audit to claims that are identified by prescription number.

(7) If an audit is conducted for a reason other than an identified problem, limitation of the audit to the lesser of (i) one-tenth of one percent (0.1%) of the number of total prescription fills processed through the pharmacy benefits manager for that pharmacy in a calendar year or (ii) 50 prescription fills processed through the pharmacy benefits manager for that pharmacy in a calendar year.

(8) If an audit reveals the necessity for a review of additional claims, to have the audit conducted on site upon request by the pharmacy. Except in the case of an identified problem, the pharmacy shall also be entitled to written notice provided at least 14 days prior to any audit of additional claims that details the basis for the review of additional claims, including a specific description of any suspected fraud or abuse.

(9) No more than one audit in one calendar year, unless fraud or misrepresentation is reasonably suspected or unless an audit is conducted for an identifiable problem.

(10) The same standards and parameters applied to the pharmacy as are applied to other similarly situated pharmacies audited by the same auditing entity.

(11) At least 30 days following receipt of the preliminary audit report to produce documentation to address any discrepancy found during an audit.

(12) The period covered by an audit limited to 24 months from the date a claim was submitted to, or adjudicated by, the auditing entity unless a longer period is permitted by a federal plan under federal law.

(13) No initiation or scheduling of audits during the first five calendar days of any month without the express consent of the pharmacy. The pharmacy shall cooperate with the auditing entity to establish an alternate date should the audit fall within the days excluded.

(14) The preliminary audit report delivered to the pharmacy within 120 days after conclusion of the audit.

(15) The final audit report delivered to the pharmacy within 90 days after the end of the appeals period, as required under this Part.

(16) An audit based only on information obtained by the auditing entity and not based on any audit report or other information gained from an audit conducted by a different auditing entity. This subdivision does not prohibit an auditing entity from using an earlier audit report prepared by that auditing entity for the same pharmacy. Except as required by State or federal law, an auditing entity is granted access to a pharmacy's previous audit report only if the previous report was prepared by that auditing entity.

(17) The use of any prescription that complies with federal or State laws and regulations at the time of dispensing to validate a claim in connection with a prescription, prescription refill, or a change in a prescription.

(b) If the auditing entity conducting an audit of a pharmacy is a vendor or subcontractor of the responsible party on behalf of which the audit is conducted, then that vendor or contractor is required to identify the responsible party on behalf of which the audit is being conducted without this information having been first requested by the pharmacy. (2011-375, s. 1; 2013-379, s. 3; recodified from N.C. Gen. Stat. 90-85.50(b) by 2025-69, s. 5.1(a), (b).)