CHAPTER 108

(SB 16)

AN ACT relating to the report on dispensing prescription medications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.561 is amended to read as follows:

(1) The cabinet shall submit a report to the Governor and the Legislative Research Commission on the dispensing of prescription medications to persons eligible under KRS 205.560, on or before October 31, 2003, and every third year thereafter.~~[Each report shall include a research study on costs incurred by pharmacies in the provision of prescription medications to Medicaid-eligible recipients, including but not limited to dispensing fee costs and drug acquisition costs, the current level of dispensing fee provided by the cabinet and other third-party payors, and an estimate of any additional revenues needed to adjust reimbursement to pharmacies.]~~ The report shall also include current data on the most utilized and abused drugs in the Kentucky Medicaid program, a determination of factors causing high drug costs and drug usage rates of Medicaid recipients, and the effectiveness of the drug formulary and prior authorization process in managing drug costs. The report shall be reviewed by the Drug Management Review Advisory Board created under KRS 205.5636.

~~[(2) Prior to data collection for and analysis of the research study specified in subsection (1) of this section, the Cabinet for Health Services and any person or entity holding a contract to perform the study shall report to the Interim Joint Committee on Health and Welfare with the proposed research methodology for carrying out subsection (1) of this section.~~

~~(3) The research study specified in subsection (1) of this section shall include the following components:~~

~~(a) Recent academic review of the literature, previous research performed for the Department for Medicaid Services, and research from other states to determine the relevant factors to include in the study methodology;~~

~~(b) Analysis of relevant factors that influence dispensing and acquisition costs, including but not limited to:~~

~~1. Urban versus rural location;~~

~~2. Chain versus independent affiliation;~~

~~3. Total prescription volume;~~

~~4. Medicaid volume as a percent of the total volume; and~~

~~5. Profit;~~

~~(c) A representative sample of sufficient size appropriately stratified to make valid estimates of the effects of each of the relevant factors on dispensing and acquisition costs;~~

~~(d) Standard error for each estimate;~~

~~(e) Calculation of a ninety-five percent (95%) confidence interval for each sample estimate;~~

~~(f) Review of statistical tests of significance at the five percent (5%) significance level to determine if the variation in dispensing and acquisition costs occurs across the stratification types included in the study;~~

~~(g) A test for normality;~~

~~(h) Methodology to identify and exclude outliers;~~

~~(i) Analysis of the cost of administering the prior authorization program by the Department for Medicaid Services; and~~

~~(j) Comparison of the differences in reimbursement for dispensing fee costs and for drug acquisition costs between the Kentucky Medicaid program, other states' Medicaid programs, and commercial payors.]~~

(2) ~~[(4)]~~ A reasonable fee for dispensing prescription medications shall be determined by the Department for Medicaid Services~~[based on a review of:~~

~~(a) The findings of the research study required under subsection (1) of this section;~~

~~(b) Dispensing fee reimbursement used by other state Medicaid programs; and~~

~~(c) Dispensing fee reimbursement used by commercial payors]~~.

Section 2. KRS 205.6316 is amended to read as follows:

The Cabinet for Health Services shall review the procedures for medical assistance reimbursement of pharmacists to reduce fraud and abuse. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(1) Point-of-sale computer technology, with integration of data at the physician's office and the pharmacy, that will permit prospective drug utilization review;

(2) Usage parameters by drug class to enable medical necessity and appropriateness reviews to be conducted prior to payment;

(3) A dialog among the Department for Medicaid Services, the Kentucky Medical Board of Licensure, and the Kentucky Board of Pharmacy, to develop recommendations for legislation for the 1996 Regular Session of the General Assembly that will strengthen the generic substitution laws for prescription medication; and

(4) A dispensing fee for each prescription~~[considering the findings of the research study report submitted by the cabinet pursuant to KRS 205.561]~~.

Approved April 9, 2004