

HOUSE BILL 542  
By Rhinehart

AN ACT to amend Tennessee Code Annotated, Title 56 and Title 71, relative to recoupment of payment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 32, Part 2, is amended by adding the following as a new section to be appropriately designated.

Section 56-32-237.

(a) If authorization is given by a health maintenance organization or its agent to any pharmacy services provider for care to be delivered to a covered beneficiary under any evidence of coverage issued by the health maintenance organization, including those organizations participating in the TennCare program, then such organization acting directly or by delegation through an agent acting on behalf of the organization shall not subsequently rescind or modify that authorization or deny the authorized payment to the pharmacy services provider for the authorized service after the provider renders the authorized service in good faith and pursuant to the authorization, except for payments made as a result of the provider's misrepresentation or fraud.

(b) The commissioner of commerce and insurance shall have the authority to conduct periodic examinations of these entities to verify the compliance with this section. Any entity found to be in noncompliance with this section shall be subject to revocation or suspension of its certificate of authority under § 56-32-216 or the imposition of the penalties and other remedies set forth in § 56-32-220. In addition, within thirty (30) days of entry of a final order by the commissioner finding that an entity denied payment in violation of this section, the entity shall cause the authorized payment to be issued to the affected provider.

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 7, Part 23, is amended by adding the following as a new section to be appropriately designated.

Section 56-7-2362.

(a) If authorization is given by a health insurer or its agent to any pharmacy services provider for care to be delivered to a covered beneficiary under any individual, franchise, blanket or group health insurance policy, medical service plan or contract, hospital service corporation contract, hospital and medical service corporation contract or fraternal benefit society, the health insurer acting directly or by delegation through an agent acting on behalf of the health insurer shall not subsequently rescind or modify that authorization or deny the authorized payment to the pharmacy services provider for the authorized service after the provider renders the authorized service in good faith and pursuant to the authorization, except for payments made as a result of the provider's misrepresentation or fraud.

(b) The commissioner of commerce and insurance shall have the authority to conduct periodic examinations of these entities to verify the compliance with this section. Any entity found to be in noncompliance with this

section shall be subject to the imposition of the penalties and other remedies set forth at Tennessee Code Annotated, Sections 56-1-308, 56-1-801 and 56-1-802. In addition, within thirty (30) days of entry of a final order by the commissioner finding that an entity denied payment in violation of this section, the entity shall cause the authorized payment to be issued to the affected provider.

SECTION 3. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following language as a new section to be designated as follows:

Section 71-5-138. Any managed care organization participating in the TennCare program shall comply with the provisions of §56-32-237 concerning authorizations given to a pharmacy services provider for care to be delivered to an enrollee receiving TennCare benefits. The commissioner of commerce and insurance shall have the authority to conduct periodic examinations of such entities to verify the compliance with this section. Any entity found to be in noncompliance with this section shall be subject to the imposition by the commissioner of the same penalties and other remedies set forth in §56-32-220. In addition, within thirty (30) days of entry of a final order by the commissioner finding that an entity denied payment in violation of this section, the entity shall cause the authorized payment to be issued to the affected provider.

SECTION 4. The provisions of this act shall not apply to health plans preempted from state regulation by the Employee Retirement Income Security Act of 1974 ("ERISA").

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. This act shall take effect July 1, 2001, the public welfare requiring it.