

**Texas Tech University Health Sciences Center  
Billing Compliance Program Policy and Procedure**

<b>3.1, Report and Return of Overpayments</b>	
<b>Approved Date: October 21, 2010</b>	<b>Effective Date: October 21, 2010</b>
<b>Last Revised:</b>	<b>References:</b> <a href="#">Section 6402, Patient Protection and Affordable Care Act</a> ; <a href="#">31 U.S.C. §3729(b)(3)</a> ; <a href="#">Tex. Occ. Code, Sec. 101.352(h)</a>

**A. PURPOSE**

The purpose of this policy is to establish the date(s) for identification of overpayments and the process for timely reporting and return of identified overpayments as required under Section 6402 of the Patient Protection and Affordable Care Act (PPACA).

**B. POLICY**

Any overpayments identified during billing compliance routine monitoring, internal audits or investigations and confirmed as identified overpayments, as established by this policy, shall be reported and refunded as outlined in this policy. Any other overpayments shall be refunded in accordance with any written instructions from the payer, and in the absence of such written instructions, shall be refunded in accordance with this policy.

**C. SCOPE**

This policy applies to overpayments identified during billing compliance routine monitoring activities, internal audit activities, and/or billing compliance investigations. It does not apply to payer identified errors subject to adjustment or recoupment by the payer. It does not replace existing processes in the Schools business offices (i.e., Medical Practice Income Program (MPIP) for the Schools of Medicine) related to routine payment processing procedures.

**D. BACKGROUND**

In 2009, the Fraud Enforcement and Recovery Act (FERA) was signed into law amending the False Claims Act (FCA). As a result, an entity violates the FCA if it “knowingly and improperly avoids or decreases an obligation” to pay money to the United States. An “obligation” is defined as “an established duty, whether or not fixed, . . . arising from the retention of any overpayment.” 31 U.S.C. §3729(b)(3).

Effective, March 23, 2010, the Patient Protection and Affordable Care Act (PPACA), establishes an obligation under the FCA to report and return identified Medicare or Medicaid overpayments. Specifically, an overpayment must be reported and returned within 60 days after the date on which the overpayment was identified or the date any corresponding cost report is due, whichever is

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later. Overpayments retained beyond the applicable 60 day period can result in the imposition of treble damages and monetary penalties under the FCA if there is a knowing and improper failure to return the overpayment.

Texas Health & Safety Code, Section 101.352(h) requires a physician to refund a patient overpayment within the 30<sup>th</sup> day after the date the physician determines an overpayment has been made.

**E. DEFINITIONS**

1. "Overpayment" is defined under PPACA as "any funds that a person receives or retains under title XVIII (Medicare) or title XIX (Medicaid) to which the person, after applicable reconciliation, is not entitled under such title". Our Medicare Contractor, [Trailblazer](#), defines a Medicare overpayment as "a payment that a physician or supplier has received in excess of amounts due and payable under Medicare statute and regulations." Overpayments include, but are not limited to findings of upcoding, incorrect code or modifier resulting in a higher level of reimbursement, insufficient or lack of documentation to support billed services; services billed under the wrong provider, lack of medical necessity, duplicate payment, payment to the incorrect payee, or any other finding that reflects an overpayment was received by TTUHSC as a result of inaccurate or improper coding or reporting of health care items or services.
2. "Identified Overpayments" are overpayments that have been reconciled and must be reported and returned as outlined in this policy.

**F. PROCEDURE**

1. *Deadline for Reporting and Returning Identified Overpayments*
  - a. *Third-party Payer.* In the case of claims billed and paid by any third-party payer, overpayments shall be reported and returned to the third-party payer within 60 days from the date the overpayments are identified by the payer or TTUHSC as outlined in this policy.
  - b. *Cost Reports.* In the case of payments made under a Medicare or Medicaid cost report, overpayments shall be reported and returned within 60 days from the date the cost report is due or the overpayments are identified in accordance with this policy, whichever is later.
  - c. *Patient Self-Pay.* In the case of a patient overpayment, the overpayment shall be returned to the patient no later than the 30<sup>th</sup> day after the date the overpayment is identified.

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2. Responsible Party for Processing Return of Overpayments

a. *Schools of Medicine.*

- 1) The Department shall be responsible for providing the necessary information to the Medical Practice Income Practice (MPIP) Business office (BO) related to the identified overpayment, including the patient identifiers (name, medical record number, date of birth), date of service, the affected codes and the reason the overpayment occurred.
- 2) The MPIP BO shall be responsible for submitting the return of identified overpayments and any applicable report as outlined in paragraph 3(b) below unless otherwise instructed in writing by the Billing Compliance Director (BCD), or Institutional Compliance Officer (ICO).

- b. *School of Nursing, School of Pharmacy and School of Allied Health Sciences.* Each School shall designate one or more persons who shall be responsible for submitting the return of identified overpayments and any applicable written report required under paragraph 3(b) below unless otherwise instructed in writing by the ICO.

3. Process to Report and Return Overpayments

a. *Returns.*

- 1) Medicare. Medicare overpayments shall be returned to the Medicare Contractor that paid the claim, at the address identified by the Contractor.
- 2) Medicaid. Medicaid overpayments shall be returned to the Medicaid agency that paid the claim, at the address identified by the state Medicaid agency.
- 3) Other Payers. Overpayments from other payers shall be returned in the manner and at the address specified by the payer.

- b. *Report.* Each return to Medicare or Medicaid of an identified overpayment shall include the following written report.

- 1) Medicare. Unless otherwise instructed by our Contractor Trailblazer, National Government Services (NGS)<sup>1</sup>, or the ICO, complete

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<sup>1</sup> The School of Nursing submits the majority of its claims to the Medicare Contractor National Government Services (NGS) located in the state of Wisconsin.

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Provider/Physician/Supplier/Other Entity section of the most current Trailblazer "Overpayment Refund Form" which is available on Trailblazer's website at:

[http://www.trailblazerhealth.com/Publications/PDF%20Form/overpaym entform\\_fields.pdf](http://www.trailblazerhealth.com/Publications/PDF%20Form/overpaym entform_fields.pdf). A copy shall be provided to the BCO for the Schools of Medicine and ICO for all other Schools.

- 2) Medicaid. For Texas Medicaid, complete and submit the most current version of the Texas Medicaid Refund Information Form, [http://www.tmhp.com/Provider\\_Forms/Medicaid/Texas-Medicaid-Refund-Information-Form.pdf](http://www.tmhp.com/Provider_Forms/Medicaid/Texas-Medicaid-Refund-Information-Form.pdf), or CSHCN Services Program Refund Information Form [http://www.tmhp.com/Provider\\_Forms/CSHCN/Provider%20Forms/Refund%20Information%20Form.pdf](http://www.tmhp.com/Provider_Forms/CSHCN/Provider%20Forms/Refund%20Information%20Form.pdf), as applicable. For other Medicaid agencies, utilize the reporting forms required by that state's Medicaid agency.

4. Process for Identifying Overpayments.

- a. *Routine Monitoring*. Overpayments found during routine monitoring shall be considered identified overpayments for purposes of this policy on the date which is the **earlier** of:
- The Provider's signature on Appendix B, Provider Report; or
  - Thirty (30) days after the end of the calendar quarter in which the monitoring occurred. For example, if the monitoring occurred during the first calendar quarter, then April 30 would be the date the overpayment was identified for purposes of determining when to start counting the 60 day period to report and return the overpayment.
- b. *Internal Audits and Investigations*. Overpayments found during internal audits, including risk-based audits, and investigations shall be considered identified overpayments for purposes of this policy on the date of the final report. Refunds of these overpayments, including the written report required under paragraph 3(b) above may be conducted under the oversight of the ICO.
- c. *Payer Identified Overpayments*. Unless otherwise stated in writing by the payer, overpayments identified by the payer shall be refunded within sixty (60) days from the receipt of written notice of such overpayment. However, if the payer's findings of overpayment are appealed, the School shall comply with the payer's appeal process, which may or may not require a refund during the appeal period.

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**G. ADMINISTRATION AND INTERPRETATIONS**

Questions regarding this policy may be addressed to the applicable regional Billing Compliance Director or to the Institutional Compliance Officer.

**H. AMENDMENTS, REVISIONS OR TERMINATION**

This policy shall be reviewed no later than March 1 in each odd-numbered year.

This policy may be amended or terminated at any time to reflect changes in laws, regulations or TTUHSC operating procedures.

**I. CERTIFICATION**

I certify that this policy was approved by the Billing Compliance Committee, as reflected in the minutes dated October 21, 2010.

  
Mildred L. Johnson, JD, CPC, CCEP  
Institutional Compliance Office