3.1, Report and Return of Overpayments

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<th>Approved Date: October 21, 2010</th>
<th>Effective Date: October 21, 2010</th>
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<td>Last Revised: August 1, 2015</td>
<td>References: Section 6402, Patient Protection and Affordable Care Act; 31 U.S.C. §3729(b)(3); Tex. Occ. Code, Sec. 101.352(h)</td>
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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 30th 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, Novitas 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 30th day after the date the
      overpayment is identified.
2. Responsible Party for Processing Return of Overpayments

   a. Schools of Medicine, School of Nursing, School of Pharmacy and School of Allied Health Sciences.

      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/Officer (BCD/O), or Institutional Compliance Officer (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 Novitas, National Government Services (NGS)\(^1\), or the ICO, complete the most current Novitas Overpayment /Refund Form.

      2) Medicaid. For Texas Medicaid, complete and submit the most current version of the Texas Medicaid Refund Information Form, \(\text{http://www.tmhp.com/MTP/Modules/Texas-Medicaid-Refund-}\)

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

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 Letter
   - 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.

G. ADMINISTRATION AND INTERPRETATION, REVISIONS OR TERMINATION

Refer to Billing Compliance Policy 1.0 Policy Development and Implementation

Failure to comply with this policy shall result in appropriate disciplinary action.

Questions regarding this policy may be addressed to the Institutional Compliance Officer or respective campus’ BCD/O.

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