

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

3.1, Report and Return of Overpayments	
Approved Date: October 21, 2010	Effective Date: October 21, 2010
Last Revised: September 26, 2016	References: Section 6402, Patient Protection and Affordable Care Act ; 31 U.S.C. §3729(b)(3) ; Tex. Occ. Code, Sec. 101.352(h)

A. PURPOSE

The purpose of this policy is to establish the requirements for reporting and returning of identified overpayments as required under Section 6402 of the Patient Protection and Affordable Care Act (Affordable Care Act).

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 and applicable law. Any other overpayments shall be reported and refunded in accordance with applicable law and 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 monitoring activities, internal audit activities, and/or billing compliance risk based reviews and 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)) related to routine payment processing procedures.

D. BACKGROUND

On February 12, 2016, CMS published a final rule (effective March 14, 2016) addressing compliance with Section 1128J(d) of the Social Security Act. Section 1128J(d), the "60-day Rule," which was added when the Affordable Care Act was enacted on March 23, 2010, imposed a requirement on providers and suppliers receiving funds under Part A and Part B of the Medicare program to report and return overpayments. Specifically, it provides that an overpayment must be reported and

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

returned by the later of (i) the date that is 60 days after the date on which the overpayment was identified or (ii) the date any corresponding cost report is due, if applicable.

The retention of an overpayment after these deadlines creates an “obligation” for purposes of potential liability under the federal False Claims Act (FCA). See 31 U.S.C. § 3729.

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 the Affordable Care Act as “any funds that a person receives or retains under title XVIII (Medicare) to which the person, after applicable reconciliation, is not entitled under such title”. TTUHSC’s 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 may result from findings of upcoding, incorrect codes or modifiers 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, receipt of payment when another payer had the primary responsibility for payment, 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. “Person” means a provider or supplier.
3. Identified Overpayments: A person has identified an overpayment “when the person has, or should have, through the exercise of reasonable diligence, determined that the person has received an overpayment and quantified the amount of the overpayment”. Such identified overpayments must be reported and returned as outlined in this policy.

F. PROCEDURE

1. *Deadline for Reporting and Returning Identified Overpayments*
 - a. An overpayment must be reported and returned by the later of either of the following

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

- 1) Sixty (60) days after the overpayment was identified.
See “Process for Identifying Overpayments” below.
 - 2) The date any corresponding cost report is due, if applicable.
- b. *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. Process to Report and Return Overpayments
- a. *Returns.*
- 1) Medicare. Medicare overpayments shall be returned to the Medicare Contractor using an applicable claims adjustment, credit balance reconciliation, self-reported refund, or other appropriate process set forth by the applicable Medicare Contractor to satisfy the obligation to report and return Medicare overpayments.
 - 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. For Medicare refunds, the most current [Novitas Overpayment /Refund Form may be used or the alternate overpayment return processes noted above in 3\(a\)1.](#)

For non-routine overpayment refunds (e.g., quantification of overpayment over a six-year period), the ICO, in coordination with legal counsel, will provide guidance on how to proceed with the reporting and refunding process.
 - 2) Medicaid. For Texas Medicaid, complete and submit the most current version of the Texas Medicaid Refund Information Form, - <http://www.tmhp.com/MTP/Modules/Texas-Medicaid-Refund->

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.

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

[Information-Form.pdf](#) or CSHCN Services Program Refund Information Form

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.

3. Process for Identifying Overpayments.

Refer to BCP 5.2 *Billing Compliance Monitoring* and BCP 5.7 *Oversight Audit*.

a. *Overpayments found during OIC-performed or directed routine monitoring, oversight audits, and risk based audits and investigations.*

The OIC Billing Compliance Office will report findings back to the respective clinical department for their review. The clinical department will have 15 calendar days to respond with either their agreement to the finding(s) accompanied by signed provider form, disagreement with the finding for subsequent discussion and resolution with the BCO, or request for extension of time to respond due to provider being unavailable, e.g., vacation, illness, leave of absence.

If there is no response of any kind from the clinical department by the 15th calendar day, the BCO will present their findings to HSC MPIP Business Office so that any identified overpayments can be refunded to the payer.

"Finding/Identification" of an overpayment is the earlier of the date of receipt of signed provider form or date after 15 days if no response from the clinical department.

Identified overpayments are reported to the HSC MPIP Business Office via email to the Managing Director and/or Unit Manager for Repayments/Recoups. The BCO will post the encounters for repayment on the "refund recoup spreadsheet" link at the Business Office Shared Point site.

b. *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.

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

- c. *Internal/External Audits and Investigations (non-OIC performed or directed)*. Overpayments found during internal or external audits, and investigations (non-OIC performed or directed) shall be considered identified overpayments for purposes of this policy on the date of the final report by the investigating department/entity, e.g., Office of Audit Services, to the HSC MPIP Business Office and the OIC. Refunds of these overpayments will be coordinated between the department conducting the audit, the OIC and the HSC MPIP Business Office.

4. Responsible Party for Processing Return of Overpayments

The MPIP BO shall be responsible for submitting, within 60 days, the return of identified overpayments and any applicable report.

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.