

## Texas Tech University Health Sciences Center El Paso Institutional Compliance Policy

<b>Policy: BCP EP 3.1 Report and Return of Overpayments</b>	<b>Effective Date: October 21, 2010</b>
	<b>Last Revision Date: April 26, 2023</b>
<b>References: <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></b>	

### **Policy Statement**

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

### **Scope**

This policy applies to overpayments or underpayments identified during Billing Compliance routine auditing activities, internal monitoring 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 School business office (i.e., Medical Practice Income Program (MPIP) related to routine payment processing procedures.

### **Policy**

Any overpayments and underpayments identified during Billing Compliance audits or investigations and confirmed as identified overpayments or underpayments, as established by this policy, shall be reported and refunded or rebilled as outlined in this policy, Billing and Collections (BAC) 18. Any other overpayments or underpayments shall be refunded or rebilled by written instructions from the payer, and in the absence of such written instructions, shall be refunded by this policy.

### **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) established 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 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 Tech University Health Sciences Center El Paso Institutional Compliance Policy

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.

### Definitions

1. “Overpayment” is defined under PPACA as “any funds that a person received 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 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, payment to the incorrect payee, or any other finding that reflects an overpayment was received by Texas Tech University Health Sciences Center El Paso (TTUHSC El Paso) 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.

### 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 El Paso as outlined in this policy and BAC 18 policy.
  - b. Patient Overpayment (Including self-pay, payment of deductibles, and co-payments) – 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. Texas Health & Safety Code, Section 101.352 (h).
2. Processing returns of overpayment will be governed by MPIP BAC 18.
3. Process for identifying overpayments
  - a. Overpayment found during routine audit or monitoring shall be considered identified overpayments for purposes of this policy on the date of the audit reconciliation. Compliance will send documentation of identified overpayments and underpayments to MPIP leadership.
  - b. 30 calendar days after providing the information to MPIP, Compliance will monitor the identified overpayment accounts to assure that either the corrected claim with the correct frequency code has been submitted or that a repayment has been made. If Compliance does not find that a corrected claim or a repayment has

## Texas Tech University Health Sciences Center El Paso Institutional Compliance Policy

been submitted, the Compliance staff member performing the monitoring activity will alert at a minimum the Executive Director of MPIP, the Institutional Compliance Officer.

- c. Overpayments found during internal audits, including risk-based audits and investigations should be considered identified overpayments for purposes of this policy on the date of audit reconciliation. Refunds of these overpayments, including written reports required under paragraph 3(b) may be conducted under the oversight of the Institutional Compliance Officer (ICO) or Billing Compliance Unit Manager and as described by MPIP BAC 18.
- d. 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, TTUHSC El Paso shall comply with the payer's appeal process.

### **Administration and Interpretation, Revisions, or Termination**

Refer to the 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 ICO or Billing Compliance Unit Manager.

This policy may be amended or terminated at any time, subject to approval by the Billing Compliance Advisory Committee.

### **Frequency of Review**

This policy shall be reviewed no later than May of each odd-numbered year.

**Review Date:** August 1, 2015, January 1, 2017, May 2019, January 27, 2021, April 26, 2023

**Revision Date:** January 1, 2017, January 27, 2021, April 26, 2023