

TITLE 1 ADMINISTRATION
PART 15 TEXAS HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 371 MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD
AND ABUSE PROGRAM INTEGRITY
SUBCHAPTER G ADMINISTRATIVE ACTIONS AND SANCTIONS
DIVISION 3 ADMINISTRATIVE ACTIONS AND SANCTIONS

§371.1723. Recoupment of Overpayments Identified by Retrospective Payment Review.

(a) Introduction. The OIG conducts retrospective payment (RP) reviews related to the provision and delivery of all health and human services in the state. RP reviews include data reviews and record reviews. The OIG may recoup an overpayment identified in a RP review.

(b) Records.

(1) A person who receives a request for records and documentation for an OIG RP review must provide the requested records and documentation to the OIG within the time period requested by the OIG or 10 calendar days from the date of receipt of the request, whichever is later.

(2) When requested, a person must submit a signed and notarized OIG-approved records affidavit that properly authenticates the records and documentation provided to the OIG as business records pursuant to Texas Rules of Evidence Rule 803(6) and Rule 902(10).

(3) Failure to timely produce requested records and affidavits may result in an OIG enforcement action under this chapter.

(c) Review procedures.

(1) A RP review conducted by the OIG:

(A) limits the period covered by a RP review to five years;

(B) includes any finding of an overpayment amount;

(C) is limited to recovery of overpayments less than or equal to \$100,000 per case, except recovery of overpayments is limited to less than or equal to \$300,000 when the overpayment amount is based on a single Medicaid recipient's treatment; and

(D) permits a person subject to a review to produce records and documentation to address any finding found during a RP review by the date specified by the OIG.

(2) Overpayments identified in a RP review may be referred to other areas within the OIG or other entities outside of the OIG.

(3) For purposes of this section, a case means the application of the selected

criteria to a particular set of data or records for a person subject to a review.

(d) Notice.

(1) The OIG provides written notice of review results, first level appeal results, if any, and second level appeal results, if any.

(2) A notice of RP review results includes any finding of an overpayment amount, instructions for filing a first level appeal, and a date by which the first level appeal request must be received.

(3) If applicable, a notice of first level appeal results includes any finding of an overpayment amount, instructions for filing a second level appeal, and a date by which the second level appeal request must be received.

(4) If applicable, a notice of second level appeal results includes any finding of an overpayment amount and instructions related to payment of any overpayment amount.

(5) OIG notices may be sent by electronic mail.

(e) Due process.

(1) A RP review provides an option for a first level appeal and, if necessary, a second level appeal.

(2) A first level appeal is a review conducted by a reviewer who was not associated with the initial review.

(3) A second level appeal, if necessary, is conducted by HHSC, or its contractor.

(4) A request for a first or second level appeal must be timely and complete as specified in the notice of review results or first level appeal results.

(f) Scope and effect.

(1) A notice of RP review results becomes final and unappealable 30 calendar days after the person's receipt of the RP review results notice, unless the OIG, or its contractor, has received a timely and complete request for a first level appeal.

(2) A notice of first level appeal results becomes final and unappealable 30 calendar days after the person's receipt of the first level appeal results notice, unless the OIG, or its contractor, has received a timely and complete request for a second level appeal.

(3) A notice of second level appeal results becomes final and unappealable 30 calendar days after the person's receipt of the second level appeal results notice.

(4) The effect of a final notice as specified in this subsection is to create a final debt in favor of the State of Texas.

(5) A person who receives a final notice as specified in this subsection must,

within 60 calendar days after receipt of the final notice:

(A) pay the overpayment; or

(B) submit a request for, and execute, a final payment plan agreement approved by the OIG.

(6) Failure to pay a delinquent debt may result in OIG collection efforts or enforcement action under this chapter.

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