

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

§371.1721. Recoupment of Overpayments Identified by Inspection.

(a) Introduction. The OIG conducts inspections related to the provision and delivery of all health and human services in the state. The OIG may recover an overpayment identified in an inspection.

(b) Records.

(1) A person who receives a request for records and documentation for an OIG inspection must provide the records and documentation to the OIG within the time period requested by the OIG or seven calendar days from the date of receipt of the request, whichever is later, except when an element of surprise is critical to the inspection objective. When an element of surprise is critical, the person must provide the records and documentation to OIG when requested.

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

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

(c) Inspection procedures. An inspection conducted by the OIG:

(1) is conducted in accordance with the Quality Standards for Inspection and Evaluation adopted by the Council of the Inspectors General on Integrity and Efficiency or other appropriate standards recognized by a similar third party;

(2) is limited to a time period of five years;

(3) notifies the person in writing of the impending inspection not later than the seventh calendar day before the first day of the site visit, if any, except when an element of surprise is critical to the inspection objective; and

(4) permits the person to produce documentation to address any finding found during an inspection by the date specified by the OIG.

(d) Notice.

(1) Draft inspection report. The OIG delivers the draft inspection report after field work is completed.

(2) Final inspection report. The OIG delivers a final inspection report to the appropriate official or officials responsible for acting on the findings and recommendations contained in the report.

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

(e) Final report. The final inspection report includes:

(1) a statement of compliance with the Quality Standards for Inspection and Evaluation or other appropriate standards;

(2) the management response, if provided, which may be summarized; and

(3) any recommendations, findings, or overpayment amount.

(f) Due process.

(1) Draft inspection report. A person who is the subject of a draft inspection report may provide a written management response. The OIG must receive the written management response by the date specified by the OIG. The OIG may revise the draft inspection report as needed to incorporate management responses, if provided, or other relevant considerations; or the OIG may issue a final report.

(2) Final inspection report. A person who receives a final inspection report that includes an overpayment amount must:

(A) pay the overpayment amount no later than 60 calendar days after receipt of the final inspection report;

(B) timely request and execute a final payment plan agreement approved by the OIG; or

(C) make a timely request to the OIG for an administrative hearing at the HHSC Appeals Division.

(3) Request for payment plan agreement. A request for a final payment plan agreement must be in writing and received by the OIG no later than 15 calendar days after receipt of the final inspection report.

(4) Request for administrative hearing appeal. A request for an appeal must be in writing and received by the OIG no later than 15 calendar days after receipt of the final inspection report. The request must:

(A) be signed by the person or the person's attorney;

(B) specify the issues, findings, or legal authority being challenged and the basis for each challenge; and

(C) for inspection findings that are not being challenged, state whether the person will remit payment no later than 60 calendar days after receipt of the final inspection report or seek a payment plan agreement.

(5) Administrative hearing appeal. Upon timely receipt of a proper written request for appeal, the OIG notifies the HHSC Appeals Division of the person's hearing request. The appeal then proceeds pursuant to Chapter 357, Subchapter I of this title (relating to Hearings Under the Administrative Procedure Act).

(g) Scope and effect.

(1) A final inspection report becomes final and unappealable 30 calendar days after the person's receipt of the final inspection report, unless the OIG has received a timely and complete request for an appeal.

(2) If the person has timely and completely requested an appeal, the contested amount of the overpayment becomes final 30 calendar days after the person receives written notice of the appeal results. Recovery of any overpayments at issue on appeal is not initiated until the appeal has been finally determined.

(3) The effect of an overpayment identified in a final inspection report is to create a final debt in favor of the State of Texas.

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