

Procedure for Challenging Medicaid "Overpayment" Claims

The following information is offered for the guidance of primary care physicians in deciding how to respond to letters from the Kentucky Department for Medicaid Services seeking repayment of alleged "overpayments" of Primary Care Adjusted Rates for calendar years 2013 and 2014.

Background: The Affordable Care Act required payment by state Medicaid agencies of enhanced reimbursement for primary care services furnished by primary care physicians. Rates paid for qualified primary care services had to be the highest of rates using the calendar year 2009 Medicare Conversion Factor or the Medicare rates in effect in calendar years 2013 and 2014, and regardless whether physicians were reimbursed on a fee-for-service basis or by capitation under managed care plans.

Medicaid's Demand for Repayment: If Medicaid determines a provider was overpaid, it must send a demand letter that includes, among other things, the basis for determining an overpayment exists.

Provider Appeal Rights: Providers who wish to dispute an "overpayment" or to otherwise challenge Medicaid's recoupment must first request a Dispute Resolution Meeting (DRM). **The request must be made in writing within 30 calendar days of the date the notice or demand from Medicaid was received by the provider.** Importantly, a timely request for an appeal through a DRM postpones the challenged repayment obligations until the administrative appeal process is final.

To request a DRM you must: mail a written request within 30 calendar days of the date the notice was received; identify each specific issue and dispute; state the reason you believe the Department's decision to be erroneous; provide any supporting documentation; and, state the name, mailing address, and telephone number of individuals whom you expect to attend the DRM meeting on your behalf. The Department has 10 days to respond, scheduling a meeting time.

Within the same timeframe for requesting a DRM described above, a provider may also elect to submit documentation in lieu of a meeting or request that the "meeting" be a telephone conference. Within 30 days after a DRM is held, Medicaid will either uphold, rescind, or modify the original determination of the disputed issue and will provide written notice to you of their decision and the facts upon which it is based. Be aware, however, Medicaid may, at its sole discretion, waive the DRM and issue an opinion without a meeting. In any event, an adverse opinion may be appealed by requesting an administrative hearing.

To request an administrative hearing, your written request must be received by Medicaid within 30 calendar days after receipt of the adverse DRM opinion. This request must be sent to:

Office of the Commissioner
Department for Medicaid Services
Cabinet for Health and Family Services
275 East Main Street, 6th Floor
Frankfort, Kentucky 40621

The hearing should be held in Frankfort no later than 60 calendar days after Medicaid's receipt of the request unless there is an agreed extension or the hearing officer grants a continuance. The hearing is conducted in accordance with Kentucky Revised Statutes Chapter 13B. Only issues directly raised in connection with the DRM may be considered.

A detailed description of appeal rights may be found online at the Kentucky General Assembly's website under Kentucky Administrative Regulations, 907 KAR 1:671, Sections 8 and 9.