Not Issuing Refunds? You May Be Asking for Trouble

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**Keeping overpayments can get you in hot water with patients, payers, and the law.**

If you haven't dealt with payer overpayments yet, it's only a matter of time. Overpayments happen for a variety of reasons. But if you don't know how to deal with them -- and the subsequent refund process -- you could be setting your practice up for fines and fraud allegations.

Refunds don't need to be difficult, however. Read on to get the scoop from the experts on what you need to do -- and when you need to do it -- to stay compliant and keep payers happy.

### Identify the Overpayment

Your office should have a protocol for repaying overpayments. At the very least, when you run your end-of-the-month reports, you should include a credit balance report and have a process to refund any overpayments by any health plan, regardless of the amount.

When you identify an overpayment by a payer, your first step should be to review the details of the claim and the overpayment. Make sure you do, in fact, need to process a refund.

Before refunding any money, make sure the balance isn't a payment-posting mistake. If the overpayment is legitimate, determine what occurred and develop a process to avoid the same mistake in the future.

**Tip:** If a payer comes to you and requests a refund, stating that it overpaid, you should still do your own research. Do not just assume the payer is correct. You need to "investigate the reason for the refund and determine if the request is timely and a valid reason exists to warrant a refund," explains Barbara Colburn, president and CEO of Total Health Care Solutions in Ocala, Fla.

### Contact the Payer Before Sending a Check

Refunding of overpayments is addressed in both the Office of Inspector General's (OIG's) compliance guidance for physicians and its guidance for third-party billing companies. As a healthcare provider, you have a legal obligation to repay discovered overpayments.
Once you've identified that you have a legitimate overpayment and need to send a refund, you need to communicate with your payer. Before you send the refund to the insurer, contact the company to learn its policies about such credit balances, says Barbara J. Cobuzzi, MBA, CPC-OTO, CPC-H, CPC-P, CPC-I, CHCC, president of CRN Healthcare Solutions, a coding and reimbursement consulting firm in Tinton Falls, N.J., and senior coder and auditor for The Coding Network.

**Why:** Carriers differ in how they handle refunds. Most Medicare contractors have a refund form for all refunds, which you need to use for anything you identify as overpayment. It is important you don't delay sending the overpayment back to the Medicare contractor, since it is a government payer.

"Our N.J. Medicare carrier has processed our refunds quickly and accurately. There is no need to notify them first and wait for an adjusted claim to show the overpayment," says Michelle Logsdon, CPC, CCS-P, president of Falcon Practice Management in Toms River, N.J. "Even if we disagree with the decision, we refund them right away, and appeal the decision. Medicare will charge interest on the overpayment, and then take it from a future payment."

Additionally, the Medicare appeals process, with its different stages involving different parties, works better than other payers' appeals process, so you can be assured of fair treatment, Cobuzzi adds.

Private payers may have their own rules, so check with your individual payer. For example, Logsdon explains that she does not send checks to payers other than Medicare. Instead, she first contacts the payer and sets up a claims adjustment.

"Too many times we sent checks for overpayments, and then they recoup the money from another check, and now they owe us back again, and we have to wait for the payment," Logsdon says. "It is the right thing to do to notify them, however depending on the carrier, it may be better to wait for the refund request, or even a deduction from future payments."

**Plus:** The private payer may also fail to process the refund check properly, or not deposit the refund check at all since they did not ask for it— or the refund may end up in a "black hole," says Cobuzzi.

**Use Letters to State Your Case**

Don't send refunds to payers until you have specific information on where to send the money, Cobuzzi cautions. Otherwise, the payer may not identify your check as a refund and may properly associate the payment with your practice's account. Internally, you should write off the credit balance in the patient's chart and keep a dummy ledger for each payer in which you track overpayment refunds, with the patient's name, account number, and date of service which the
refund is associated with. This way you have a record of the transactions without having to store the information in the patient file, which may offset patient balances.

Send a letter to your payer explaining that you identified an overpayment and want to send a refund check. Ask where to send the check, what information to include with the payment, and how the payment will get processed.

**Additionally:** When you send the insurer a refund check, make sure you include a letter explaining the purpose of the payment with copies of the applicable EOBs. Address the letter to a specific person who handles repayment, and send it certified return receipt mail. This documents that you found an overpayment and refunded it.

Attach your check to the refund request or attach a notice on your practice letterhead, Colburn advises. She suggests referencing the patient name, the insured's name (if different from patient), the date of service, the insured's ID number, and the amount you are refunding.

**Know the Consequences of Non-Payment**

A variety of laws oblige healthcare providers to return overpayments to the payer, including laws not necessarily drafted with the healthcare industry in mind. Social Security law details criminal penalties for acts involving Medicare or state healthcare programs (42 USC 1320a-7b), and it applies to providers billing Medicare or a state health program, such as Medicaid.

Although this law does not specifically state that a provider has an obligation to refund overpayments, it does prohibit concealing or failing to disclose submission of claims for reimbursement that were not owed to the provider "with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due."

**Remember:** If the insurer doesn't ask for the overpayment refund, even after a period of time, that doesn't mean you get to keep the money. Check your state’s unclaimed property laws, called escheat laws, on what you'll need to do in this situation. Escheat laws state that any monies that do not belong to the practice must eventually be turned over to the state. That time frame is determined by each state, Cobuzzi explains.

"I would recommend researching the unclaimed property law guidelines for the applicable state," Colburn advises. "Each state's Web site should have a Department of Treasury section that will provide the necessary instructions for reporting and the requirements."

**Avoid penalties:** "If the money is not refunded, and it is truly due, the carrier can
recoup the money from future payments," Logsdon warns. "If the carrier cannot
do that, they can use a collection agency to recover the overpayment and even
take legal action." Other consequences can vary by payer and by state, but one
thing is clear -- by not refunding overpayments, you're biding your time before
you face interest penalties, fines, and legal trouble.

Source:  http://www.codinginstitute.com/articles/Not_Issuing_Refunds_You_May.html