



Knowing your overpayment recovery rights

Many contracts between physician practices and private payers place few, if any, restrictions on the payer's ability to recover alleged overpayments via refund demands, offsets, etc. These overpayment recovery efforts place significant and unnecessary administrative burdens on physician practices. Fortunately, you may have rights that, if exercised, may greatly reduce those burdens and help you successfully challenge payers and preserve or even augment the financial stability of your practice.

Please note: The information in this document primarily addresses overpayment recovery requests pertaining to individual claims or claim line items from private payers. For information regarding overpayment recovery requests related to the Centers for Medicare and Medicaid Services (CMS) Recovery Audit Contractor (RAC) program, please visit www.ama-assn.org/go/RAC.

1. What are my rights when receiving an overpayment recovery request for an individually paid claim?

Contracts between payers and physicians often permit the payer to recover alleged overpayments by reducing or "offsetting" overpaid amounts from pending or future claims payments, with few, if any, restrictions or transparency requirements. For this reason, many state medical associations sought to reduce the ever-increasing administrative burden that overpayment recovery efforts have placed on physician practices by supporting state legislation that placed limits and specific requirements on payers' overpayment recovery processes, including advance overpayment notification, payment transparency, due process rights and claw-back time limits. As a result, at least 24 states have passed an overpayment statute or regulation that gives physicians significant rights with respect to payer overpayment recovery practices. Each physician practice that receives an overpayment recovery request on a previously paid claim from a payer must therefore not only be aware of the payer's overpayment contract provisions, but also the protections afforded under its state law. Everyone in the practice who deals with claims reconciliation needs to know what protections may exist.

Article XIV, Overpayments and Underpayments, from the [AMA's National Managed Care Contract](#), compiles the best state statutes and regulations as they relate to overpayment recovery requests from payers. The AMA encourages payers to comply with the best overpayment recovery laws, in order to be compliant in all 50 states and improve their relations with physicians. There is an increasing recognition by state legislators and regulators of the problematic effects that payers' unconstrained ability to recover overpayments has on physician practices.

The AMA's National Managed Care Contract (NMCC) is designed to comply with the managed care laws of all 50 states and the District of Columbia, as well as with federal requirements. Its associated database contains all state laws and regulations governing overpayments, as well as an issue brief, which is designed to help physicians negotiate overpayment provisions in managed care contracts and analyze the legitimacy of overpayment demands. Using the NMCC, physicians can better understand, evaluate and negotiate managed care contracts. Please visit ama-assn.org/go/nmcc to watch a five-minute [instructional video](#) that provides a high-level overview of the NMCC database functionality and how to navigate the tool.

The information provided by the AMA is not intended as legal advice.

2. How far back can a payer seek recoupment on an overpaid claim?

State laws and regulations protect the rights of payers, physicians and other health care providers, and ultimately work to preserve the financial stability of the health care industry. Timelines for payers to seek recoupment on overpaid claims vary from state to state, and often contain exceptions where the payer has evidence of fraud, abuse or misrepresentation. For example, the state of California limits payers' recoupment requests to one year of the claim's payment date. In enforcing this law, the California Department of Managed Health Care ordered a payer to stop attempting to recoup overpayments beyond the timeframe set forth by state law (i.e., the payer had been attempting to collect millions of dollars in recoupment for overpaid medical claims that were well over one year of their respective payment dates). Visit ama-assn.org/go/nationalcontract to find out how far back a payer can seek recoupment in your state.

3. If I am enrolled in electronic funds transfer (EFT), can a health plan automatically debit payments from my banking account as part of an overpayment recovery process?

No. Although the banking network enables both credits and debits, health plans are not permitted to recoup funds from a provider's bank account due to claims that have been adjusted/readjudicated. According to the Health Insurance and Portability and Accountability Act (HIPAA) standards for electronic remittance advice transactions, readjudication is a separate process and must be handled in accordance with the Accredited Standards Committee (ASC) X12 835 Implementation Guide. Health plans debiting a provider's account for this purpose would be noncompliant with the HIPAA regulations. Providers with concerns about noncompliant health plans attempting an unauthorized debit can discuss their concerns with their banks, who can establish mechanisms preventing the debiting of their account, such as ACH Positive Pay or debit filters.