

# Chapter 182-502A WAC

## PROVIDER AUDITS AND APPEALS

### WAC

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182-502A-0900 Audit sampling, extrapolation, and claim-by-claim review. [WSR 11-14-075, recodified as § 182-502A-0900, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-0900, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-1000 Provider audit—Draft report. [WSR 11-14-075, recodified as § 182-502A-1000, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-1000, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-1100 Provider audit—Dispute process. [WSR 11-14-075, recodified as § 182-502A-1100, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-1100, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-1200 Provider audit—Final report/appeal. [WSR 11-14-075, recodified as § 182-502A-1200, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-1200, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-1300 Audit outcomes. [WSR 11-14-075, recodified as § 182-502A-1300, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-1300, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

182-502A-0100 Purpose. [WSR 11-14-075, recodified as § 182-502A-0100, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-0100, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-0200 Definitions. [WSR 11-14-075, recodified as § 182-502A-0200, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090. WSR 11-11-014, § 388-502A-0200, filed 5/9/11, effective 6/9/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-0200, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-0300 Authority to audit. [WSR 11-14-075, recodified as § 182-502A-0300, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-0300, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-0400 Audit objectives. [WSR 11-14-075, recodified as § 182-502A-0400, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-0400, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-0500 Audit methods and locations. [WSR 11-14-075, recodified as § 182-502A-0500, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-0500, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-0600 Notification of on-site audits. [WSR 11-14-075, recodified as § 182-502A-0600, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-0600, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-0700 Audit overview. [WSR 11-14-075, recodified as § 182-502A-0700, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-0700, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

182-502A-0800 Auditing process. [WSR 11-14-075, recodified as § 182-502A-0800, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.200 and 74.08.090. WSR 07-10-022, § 388-502A-0800, filed 4/23/07, effective 6/1/07.] Repealed by WSR 15-01-129, filed 12/19/14, effective 1/19/15. Statutory Authority: RCW 41.05.021 and 41.05.160.

**WAC 182-502A-0101 Program integrity—Purpose.** The medicaid agency conducts program integrity activities to identify and prevent or recover improper agency payments.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-01-129, § 182-502A-0101, filed 12/19/14, effective 1/19/15.]

**WAC 182-502A-0201 Program integrity—Definitions.** The definitions in this section and those found in chapter 182-500 WAC apply throughout this chapter.

**Agency** means the Washington state health care authority and includes the agency's designees.

**Algorithm** means the set of rules applied to claim or encounter data to identify overpayments.

**Audit** means an examination of claims data, an entity's records, or both, to determine whether the entity has complied with applicable rules, regulations, and agreements.

**Audit, on-site** means an audit conducted partially at an entity's place of business.

**Audit, self** means an audit conducted by the entity and reviewed by the agency.

**Contractor** includes regional support networks (RSNs) as defined in WAC 182-500-0095, managed care organizations (MCOs) as defined in WAC 182-538-050, and any other organization that oversees how health benefits are provided to clients on the agency's behalf.

**Credible allegation of fraud** means the agency has investigated an allegation of fraud and concluded that the existence of fraud is more probable than not.

**Data mining** means using software to detect patterns or aberrancies in a data set.

**Designee** means a person the agency has designated to perform program integrity activities on its behalf.

**Encounter** includes any service provided by a federally qualified health center, rural health clinic, or tribe, which is paid an enhanced rate; and any service provided to a Washington apple health client who is covered by an MCO or other contractor, and reported to the agency.

**Entity** includes current and former contractors, providers, and their subcontractors.

**Extrapolation** means a method of estimating an unknown value by projecting the results of a sample to the universe from which the sample was drawn.

**Fraud** means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to oneself or some other person. This includes any act that constitutes fraud under applicable federal or state law. See 42 C.F.R. 455.2.

**Improper payment** means any payment by the agency that was more than or less than the sum to which the payee was legally entitled.

**Overpayment** see RCW 41.05A.010, including any subsequent amendments.

**Payee** includes providers who are reimbursed by agency-contracted managed care organizations.

**Person** means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, public corporation, or any other legal or commercial entity.

**Program integrity activities** means those activities conducted by the agency's office of program integrity or its designees to determine compliance with any law, rule, or agreement.

**Record** means any document or electronically stored information including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the entity into a reasonably usable form.

**Universe** means a defined population of claims or encounters or both.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-01-129, § 182-502A-0201, filed 12/19/14, effective 1/19/15.]

**WAC 182-502A-0301 Program integrity—Authority to conduct program integrity activities.** The medicaid agency may conduct program integrity activities and designate agents to do so on its behalf, on all Title XIX, Title XXI, and state-only-funded expenditures. See 42 C.F.R. 431, 447, 455, and 456; 45 C.F.R. 92; 42 U.S.C. 1396a; and chapters 41.05, 41.05A, and 74.09 RCW.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-01-129, § 182-502A-0301, filed 12/19/14, effective 1/19/15.]

**WAC 182-502A-0401 Program integrity activities.**

(1) **Form.** Program integrity activities include:

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- (a) Conducting audits;
  - (b) Conducting reviews;
  - (c) Conducting investigations;
  - (d) Initiating and reviewing entity self-audits under WAC 182-502A-0501;
  - (e) Applying algorithms to claim or encounter data;
  - (f) Conducting unannounced on-site inspections of entity locations; and
  - (g) Verifying entity compliance with applicable laws, rules, regulations, and agreements.
- (2) **Location.** Program integrity activities may occur:
- (a) On the premises of the medicaid agency;
  - (b) On the premises of the entity.
- (3) **Timing.** The agency may commence program integrity activities concerning any current or former agency-contracted entity or agent thereof at any time up to six years after the date of service.

(4) **Notice.** Hospitals are entitled to notice as described in RCW 70.41.045(4).

(5) **Selecting information to evaluate.**

(a) The agency may evaluate any information relevant to validating that the payee received only those funds to which it is legally entitled. In this chapter, "relevant" has a meaning identical to Federal Rule of Evidence 401.

(b) The agency may select information to evaluate by:

- (i) Applying algorithms;
- (ii) Data mining;
- (iii) Claim-by-claim review;
- (iv) Encounter-by-encounter review;
- (v) Stratified random sampling;
- (vi) Nonstratified random sampling; or
- (vii) Applying any other method, or combination of methods, designed to identify relevant information.

(6) **Collecting records to evaluate.** The entity must submit a copy of all records requested by the agency.

(a) The entity must submit requested records to the agency within the time frame stated in the request.

(b) If an entity fails to timely comply with the request, the agency may:

- (i) Deny the entity's claim under a prepay review process;
- (ii) Issue a draft audit report or preliminary review notice; or
- (iii) Issue a final audit report or notice of improper payment.

(c) An entity that fails to timely comply with a request under (a) of this subsection has no right to contest at an administrative hearing an agency action taken under (b)(i) of this subsection.

(d) The entity must submit records electronically unless the agency has given the entity written permission to submit the records in hard copy.

(e) Once a program integrity activity has commenced, the entity must retain all original records and supportive materials until the program integrity activity is completed and all issues resolved, even if the period of retention extends beyond the required six-year period.

(7) **Evaluating information.**

(a) The agency may evaluate relevant information by applying any method or combination of methods reasonably

calculated to determine whether an entity has complied with an applicable law, regulation, or agreement.

(b) Upon request, the entity is entitled to a description of the method or combination of methods used by the agency under subsection (5) of this section.

(8) **Nonbilled services.** Nonbilled services include any item, drug, code, or payment group that a provider does not submit on the provider's claim to the agency or contractor. When calculating improper payments, the agency does not include nonbilled services in its calculations.

(9) **Conducting on-site audits.** The agency may conduct on-site audits at any entity location.

(a) During an on-site audit, the agency may create a copy of an entity's records that are potentially relevant to the audit.

(b) Failure to grant the agency access to the premises constitutes failure to comply with a program integrity activity.

(10) **Conducting interviews.** The agency may interview any person it reasonably believes has relevant information under subsection (5) of this section. Interviews may consist of one or more sessions.

(11) **Costs.** The agency does not reimburse the costs an entity incurs complying with program integrity activities.

(12) **Conducting site visits.** The agency may conduct unannounced on-site inspections of any entity location to determine whether the entity is complying with all applicable laws, rules, regulations, and agreements.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-01-129, § 182-502A-0401, filed 12/19/14, effective 1/19/15.]

**WAC 182-502A-0501 Program integrity—Entity self-audits.** (1) The agency may require an entity to self-audit.

(a) The agency will give written notice of the instruction to self-audit.

(b) The entity must acknowledge receipt of the notice within thirty calendar days of receiving it.

(c) The entity must comply with all terms included in the notice; failure to timely comply with the notice constitutes failure to comply with a program integrity activity.

(d) The agency will not require an entity to self-audit any services or encounters that are included in an active state or federal program integrity activity, rate adjustment, cost settlement, or other payment adjustment.

(e) The agency will review the self-audit and state in writing whether it accepts or rejects the results of the self-audit. If the agency rejects the results it may:

(i) Instruct the entity to repeat the self-audit; or

(ii) Audit the entity.

(2) An entity may initiate a self-audit at any time to verify payments made by the agency. When the entity's self-audit and identifies an overpayment, it must:

(a) Submit to the agency written notice of the self-audit and identify each claim included in the self-audit.

(b) Report and repay the overpayment to the agency within sixty calendar days of identifying the overpayment, unless the overpayment is one of the following:

(i) Included in an active state or federal program integrity activity.

(ii) Related to a state-initiated rate adjustment, cost settlement, or other payment adjustment.

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(c) The entity's overpayment report must include:

(i) The reason for the overpayment;

(ii) How the entity calculated the overpayment; and

(iii) A list of claims associated with the overpayment.

(d) The agency will review the self-audit and state in writing whether it accepts or rejects the methodology and findings. If the agency rejects the findings it may:

(i) Instruct the entity to repeat the self-audit; or

(ii) Audit the entity.

(e) The agency will not accept any identified overpayment as full or final repayment before the completion of its review of the entity's self-audit findings.

(3) The entity's dispute and appeal rights under this section are identical to its rights during an audit conducted by the office of program integrity.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-01-129, § 182-502A-0501, filed 12/19/14, effective 1/19/15.]

**WAC 182-502A-0601 Program integrity—Extrapolation.** (1) To determine an improper payment from a probability sample, the agency may extrapolate to the universe from which the probability sample was drawn.

(2) If during the course of the audit, an entity adjusts or rebills a claim or encounter that is part of the audit sample or universe, the original claim or encounter amount remains in the audit sample or universe.

(3) When the agency uses the results of an audit sample to extrapolate the amount to be recovered, the entity is entitled to the following information upon request:

(a) The sample size.

(b) The method used to select the sample.

(c) The universe from which the sample was drawn.

(d) Any formulas or calculations used to determine the amount of the improper payment.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-01-129, § 182-502A-0601, filed 12/19/14, effective 1/19/15.]

**WAC 182-502A-0701 Program integrity activity—Agency outcomes.** (1) Following the agency's evaluation of an entity's records, claims, encounter data, or payments, the agency may do any combination of the following:

(a) Deny a claim.

(b) Adjust or recover an improperly paid claim.

(c) Instruct the entity to submit:

(i) Additional documentation.

(ii) A claim adjustment or a new claim. The entity must submit a claim adjustment or a new claim within sixty calendar days from the date of the agency's instruction or the claim adjustment or new claim will be denied. An entity has no right to an adjudicative hearing for denial under this subsection.

(d) Request a refund of an improper payment to the agency by check.

(e) Refer an overpayment to the office of financial recovery for collection.

(f) Issue a draft audit report or preliminary review notice that lists preliminary findings and alleged improper payments, which the entity may dispute under WAC 182-502A-0801.

(i) If an entity agrees with the preliminary findings and alleged improper payments before the deadline noted in the

report or notice, the entity must notify the agency in writing. The agency will then issue a final audit report or notice of improper payment.

(ii) If an entity does not respond by the deadline noted in the report or notice, the agency will issue a final audit report or notice of improper payment, unless the agency extends the deadline.

(g) Issue a final audit report, overpayment notice, or notice of improper payment, which the entity may appeal under WAC 182-502A-0901.

(h) Recover interest under RCW 41.05A.220.

(i) Impose civil penalties under RCW 74.09.210.

(j) Refer the entity to appropriate licensing authorities for disciplinary action.

(k) Refer the entity to the medical dental advisory committee for termination of the contract or core provider agreement.

(l) Determine it has sufficient evidence to make a credible allegation of fraud. The agency will then:

(i) Refer the case to the medicaid fraud control unit and any other appropriate prosecuting authority for further action; and

(ii) Suspend some or all Washington apple health payments to the entity unless the agency determines there is good cause not to suspend payments under 42 C.F.R. 455.23.

(2) At any time during a program integrity activity, the agency may issue a final audit report or a notice of improper payment if the entity:

(a) Stops doing business with the agency;

(b) Transfers control of the business;

(c) Makes a suspicious asset transfer;

(d) Files for bankruptcy; or

(e) Fails to comply with program integrity activities.

(3) The entity must repay any overpayment identified by the agency within sixty calendar days of being notified of the overpayment.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-01-129, § 182-502A-0701, filed 12/19/14, effective 1/19/15.]

**WAC 182-502A-0801 Program integrity—Dispute resolution process.** (1) An entity may object to a draft audit report or preliminary review notice. The objection must:

(a) Be in writing;

(b) State each objection and identify why the entity thinks the finding is incorrect;

(c) Present supporting evidence;

(d) State the relief sought; and

(e) Be received by the agency within thirty calendar days of the date the entity received the draft audit report or preliminary review notice.

(2) The objection may include a request for a dispute resolution conference (DRC).

(a) If the agency grants the entity's request for a DRC, the DRC must occur within sixty calendar days of the date the entity received the agency's written acceptance of the request for a DRC.

(b) At least five business days before the DRC, the entity must notify the agency of who will attend the DRC on the entity's behalf.

(3) Following the timely submission of a written objection under subsection (1) of this section and completion of

any DRC, the agency will address in writing each written objection raised by the entity.

(4) The agency may terminate the dispute resolution process and issue a final audit report or notice of improper payment if the entity fails to timely object under subsection (1) of this section.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-01-129, § 182-502A-0801, filed 12/19/14, effective 1/19/15.]

**WAC 182-502A-0901 Program integrity activity—Adjudicative proceedings.** (1) If an entity objects to any report or notice assessing an overpayment, the entity may request an adjudicative proceeding by following the procedure set out in RCW 41.05A.170.

(2) At the adjudicative proceeding, the entity bears the burden of proving by a preponderance of the evidence that it has complied with applicable laws, rules, regulations, and agreements.

(3) The adjudicative proceeding is governed by chapter 34.05 RCW and chapter 182-526 WAC.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-01-129, § 182-502A-0901, filed 12/19/14, effective 1/19/15.]