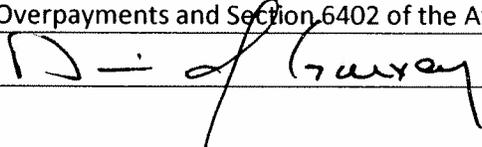




TENNCARE POLICY MANUAL

Policy No:	PI 11-001 (Rev. 3)	
Subject:	Overpayments and Section 6402 of the Affordable Care Act	
Approval:		Date: 10-22-12

PURPOSE:

The purpose of this policy is to describe the procedures to be followed by TennCare contractors and providers in implementing the requirements of Section 6402 of the Affordable Care Act with respect to "Reporting and Returning of Overpayments."

BACKGROUND:

Section 6402 of the Affordable Care Act contains new obligations for health care providers regarding reporting and returning overpayments from the Bureau of TennCare or one of its contractors. **Overpayments that are not returned within 60 days from the date the overpayment was identified can trigger a liability under the False Claims Act.** The overpayment will be considered an "obligation," as this term is defined at 31 US Code § 3729(b)(3). The False Claims Act subjects a provider to a fine and treble damages if he knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay money to the federal government.

POLICY:

Overpayments to providers and to TennCare Managed Care Contractors (MCCs) must be returned within 60 days from the date the overpayment is identified.

For purposes of this policy, the following definitions are used:

- 1. Managed Care Contractor (MCC).** An entity that contracts with TennCare for the delivery of certain services to TennCare enrollees. The entities included in this category are as follows:
 - Managed Care Organizations (AMERIGROUP, BlueCare, UnitedHealthcare, and TennCare Select)
 - Pharmacy Benefits Manager (SXC)
 - Dental Benefits Manager (TennDent)

2. **State Agency.** A State agency that is under contract with TennCare to provide certain services to certain TennCare enrollees. The entities included in this category are as follows:
 - Department of Children’s Services (DCS)
 - Department of Intellectual and Developmental Disabilities (DIDD)
3. **Contract provider.** A provider that delivers TennCare services under contract to one of the MCCs or State Agencies. Contract providers are paid by the entity with which they are contracted, rather than being paid directly by TennCare.
4. **Fee-for-service provider.** A provider that delivers services outside the managed care program and that is reimbursed directly by TennCare. Providers in this category include the following:
 - Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID)
 - Providers of Medicare crossover services

This category also includes providers that were formerly contracted with TennCare but whose contracts have ended and providers that were contracted with an MCC that is no longer active in TennCare.

The procedures for returning overpayments vary depending on what entity made the overpayment and what entity received the overpayment. These procedures are outlined below.

Group 1: MCCs and State Agencies Paid by TennCare
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If an MCC or a State Agency (as defined above) identifies an overpayment made to that entity by TennCare, the MCC or State Agency may retain the overpayment but must send a letter to TennCare containing the following information:

- An explanation of how and when the overpayment was identified
- Evidence that the next invoice to TennCare has been reduced by the amount of the overpayment

The letter must be sent to the following address:

Casey Dungan
Chief Financial Officer
Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243

Group 2: Contract Providers Paid by Contract Agencies

If a contract provider (as defined above) identifies an overpayment made to him by an MCC or a State Agency, the provider must send a letter to the MCC or State Agency that made the overpayment containing the following:

- A check to the MCC or State Agency for the amount of the overpayment
- Relevant claims data so that the MCC or State Agency can identify where the problem occurred
- An explanation of how and when the overpayment was identified

The letter must be sent to the appropriate address below and copied to TennCare.

Entity Returning the Overpayment	Address to Which the Overpayment Should be Returned	Address for Copy of Letter Accompanying the Returned Overpayment
AMERIGROUP providers ¹	Taj-Malik Hinton Tennessee Market Recovery Audit Analyst Amerigroup Community Care P. O. Box 933657 Atlanta, GA 31139-3657 Phone: 757-473-2737, ext. 33797	Dennis J. Garvey Director of Program Integrity Bureau of TennCare 310 Great Circle Road Nashville, TN 37243
BlueCare providers	Volunteer State Health Plan Attention: Claims Refund Department 1 Cameron Hill Circle, Suite 0040 Chattanooga, TN 37402-0040	Dennis J. Garvey Director of Program Integrity Bureau of TennCare 310 Great Circle Road Nashville, TN 37243
UnitedHealthcare providers	UnitedHealthcare of the River Valley Lockbox 88825 Chicago, Illinois 60603	Dennis J. Garvey Director of Program Integrity Bureau of TennCare 310 Great Circle Road Nashville, TN 37243
TennCare Select providers	Volunteer State Health Plan Attention: Claims Refund Department 1 Cameron Hill Circle, Suite 0040 Chattanooga, TN 37402-0040	Dennis J. Garvey Director of Program Integrity Bureau of TennCare 310 Great Circle Road Nashville, TN 37243
SXC providers	SXC Health Solutions 2441 Warrenville Road	Dennis J. Garvey Director of Program Integrity

¹ AMERIGROUP has a special form that should be used in return of overpayments. Providers may contact Mr. Hinton at the address provided for a copy of the form.

Entity Returning the Overpayment	Address to Which the Overpayment Should be Returned	Address for Copy of Letter Accompanying the Returned Overpayment
	Suite 610- Provider Relations Lisle, IL 60532	Bureau of TennCare 310 Great Circle Road Nashville, TN 37243
TennDent providers	TennDent P.O. Box 281078 Nashville, TN 37228-1078	Dennis J. Garvey Director of Program Integrity Bureau of TennCare 310 Great Circle Road Nashville, TN 37243
Department of Children’s Services (DCS) providers	Mohamed El-Kaissy Fiscal Division Department of Children’s Services 7 th floor, Cordell Hull Building 436 6 th Avenue North Nashville, TN 37243-1290	Dennis J. Garvey Director of Program Integrity Bureau of TennCare 310 Great Circle Road Nashville, TN 37243
Department of Intellectual and Developmental Disabilities (DIDD) providers	Stephen Beaty Fiscal Director Department of Intellectual and Developmental Disabilities Andrew Jackson Building, 15 th floor 500 Deaderick Street Nashville, TN 37243	Dennis J. Garvey Director of Program Integrity Bureau of TennCare 310 Great Circle Road Nashville, TN 37243

The MCC or State agency receiving the overpayment from a provider then has certain obligations with respect to TennCare.

Group 2.1. At-Risk MCCs

The at-risk MCCs (AMERIGROUP, BlueCare, and UnitedHealthcare) may retain the overpayment that the provider returned to them. Since these entities are at risk, there is no need for them to return the overpayment to TennCare. However, they must send a letter with the following items to TennCare:

- An explanation of how and when the overpayment was identified
- The date on which the encounter data was adjusted to reflect the recovery

The letter must be send to the following address:

Casey Dungan
Chief Financial Officer
Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243

Group 2.2 Non-Risk or Partial Risk MCCs and State Agencies

The non-risk or partial risk MCCs (TennCare Select, SXC, and TennDent) and the State Agencies (DCS and DIDD) may retain the provider overpayment that a provider has returned to them, but they must send a letter with the following items to TennCare:

- An explanation of how and when the overpayment was identified
- Evidence that the next invoice to TennCare will be reduced by the amount of the overpayment
- The date on which the encounter data was adjusted to reflect the recovery

This information should be sent to the following address:

Casey Dungan
Chief Financial Officer
Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243

Group 3: Fee-for-Service Providers Paid by TennCare

If any fee-for-service provider, as that term is defined above, has received an overpayment from TennCare or from an MCC that is no longer active in TennCare, the provider must send a letter to TennCare containing the following:

- A check to the Bureau of TennCare for the overpayment
- An explanation of how and when the overpayment was identified

The address where the check and the letter must be sent is provided below:

Casey Dungan
Chief Financial Officer
Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243

DEFINITIONS:

Knowing and knowingly. Descriptive words meaning that a person, with respect to information, has actual knowledge of the information; acts in deliberate ignorance of the truth or falsity of the

information; or acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.²

Obligation. “An established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.”³

Overpayment. Any funds that a person receives or retains under TennCare to which the person, after applicable reconciliation, is not entitled under TennCare. (A “person” means a provider of services, supplier, or TennCare MCC. It does not include a beneficiary.)⁴

OFFICES OF PRIMARY RESPONSIBILITY:

Office of Program Integrity
Division of Fiscal Budget
Office of Managed Care Operations

REFERENCES:

Affordable Care Act, Section 6402
Social Security Act, Section 1128J(d)
Fraud Enforcement Recovery Act of 2009

Original: 06/11/11: SB
Rev. 1: 10/03/11: SLM
Rev. 2: 03/16/12: AB
Rev. 3: 10/22/12: CH

² 31 U.S. Code § 3729(b)(1).

³ 31 U.S. Code § 3729(b)(3).

⁴ Affordable Care Act, § 6402.