

COMPLIANCE AUDITS QUESTIONS & ANSWERS

Question 1:

Who is subject to a potential audit?

Answer 1:

Any Health Care Reform Act (HCRA) designated providers or electing payors are subject to a potential audit. Designated providers are defined as general hospitals and diagnostic and treatment centers that provide a comprehensive range of primary health care services or ambulatory surgical services.

Question 2:

Are out of state payors subject to audits?

Answer 2:

Third party payors that have filed an election to pay the Public Goods Pool directly are subject to a potential audit regardless of whether they are domiciled in New York State or not.

Question 3:

How will a potential auditee know they are going to be audited?

Answer 3:

The auditee will receive an audit notification letter from the NYS Department of Health (DOH) stating they have been selected for a HCRA Compliance Audit. The letter will identify the firm contracted by DOH to perform the audit.

Question 4:

What can be expected when audited?

Answer 4:

The audit will include a review of the amounts paid into the Public Goods Pool for surcharge and covered lives obligations for the selected years under review. For specific detail in regard to audit protocols, please refer to the following link:

<http://www.health.state.ny.us/nysdoh/hcra/audits/milestones>

Note: Special attention should be paid to the due dates noted throughout the audit process. These dates and milestones are critical to the efficient execution and timely completion of the audit.

Question 5:

What is the purpose of the audit?

Answer 5:

The purpose of the audit is to validate the accuracy of the surcharge payments and covered lives assessment payments made to the Public Goods Pool.

Question 6:

How long does the audit usually take?

Answer 6:

It would depend on the number of years being audited. Please refer to the appropriate audit milestones on our website: <http://www.health.state.ny.us/nysdoh/hcra/audits/milestones>

Question 7:

How are interest and penalty calculated on audit findings?

Answer 7:

Interest and penalty on audit findings are calculated in accordance with Public Health Law Section 2807-j (8). The law requires that interest be applied at a rate of 12% per annum and that penalty be calculated at 5% per month, or fraction thereof, up to a maximum of 25% if amounts originally submitted are less than 90% and 70% respectively of the amounts that should have been submitted.

Question 8:

Is there a statute of limitations on the period that can be audited?

Answer 8:

Yes, payments and reports submitted or required to be submitted are subject to audit for a period of six years, following the close of the calendar year in which the payments and reports are due. Payments made for a given pool year subsequent to the close of the calendar year will reopen that year for audit purposes.

Question 9:

What records do auditees need to provide on an audit?

Answer 9:

An auditee must provide all source documents and records in support of surcharge payments or receipts, including risk sharing arrangements, and covered lives assessment payments made by the auditee for each year being audited.

Question 10:

What are some common findings that can come up in payor audits?

Answer 10:

A. Surcharge related

- inability to identify claims paid for members eligible under the Federal Employee Health Benefits Act (FEHBA)
- inability to adequately determine Medicare eligibility
- provider information noted in the paid claims file does not reflect the location where services were performed
- inability to adequately substantiate discrete billings for private practicing physicians and private practice facility plans
- inability to substantiate referred lab claims

B. Covered Lives Assessment related

- inability to identify members eligible for Medicare
- inability to determine coverage type (i.e. individual vs. family)
- inability to assign a member to a HCRA Region due to the lack of address information
- data was overwritten from the previous period

Question 11:

What if I cannot provide the data being asked of me?

Answer 11:

Failure to provide the source documentation on audit will result in the use of alternative procedures to substantiate reported payment amounts as well as subjecting the auditee to civil penalties of up to \$10,000 per occurrence for each month under review that documentation cannot be provided. In addition, failure to provide source documentation on audit, by electing payors, may result in the revocation of their Public Goods Pool election.

Question 12:

Do I have the right to dispute the audit findings?

Answer 12:

Auditees will be given the opportunity to discuss the test results with the auditors and Department of Health at the conclusion of the initial testing phase of the audit, as well as, during the data exceptions conference as noted in the audit milestones.

Question 13:

When conducting a TPA audit, are the audit findings directed toward the TPA or their clients?

Answer 13:

The purpose of auditing a TPA is to determine the TPA's compliance with surcharge and covered lives obligations. As a result the audit findings are addressed to the TPA. Any settlements between the TPA and their clients are strictly between those parties.

Question 14:

The 2008 Budget Bill passed a provision that allows DOH to offer audit settlements to past auditees in lieu of conducting a new audit for periods subsequent to the original audit. How is this settlement offer available to past auditees and what years are involved?

Answer 14:

This Budget Bill allows DOH to offer audit settlements for audit years through 2005. This settlement offer is composed of comparing the original surcharge amount actually paid for a particular audit year(s) against the amount that should have been paid as determined for the audit year. The compliance percentage is then established using the year(s) audited and an average compliance percentage is calculated. The compliance percentage is applied to the un-audited years to calculate the underpayment for each year. Applicable interest is applied using the New York State Department of Taxation and Finance Corporate Tax Tables calculated from December 31 of the appropriate year to March 31, 2008. The Department is statutorily authorized to assess a penalty of 5% per month or fraction thereof up to a maximum of 25%.

EXAMPLE

Paid Amount for 2001	\$90,000
Payments Due for 2001	\$100,000
Paid Amount for 2001 was 90% of what was actually due.	
Paid Amount for 2002	\$112,000
Dividing the Paid Amount for 2002 by the compliance percentage of 90% results in a Payment Due amount of	\$124,444
Underpayment for 2002 (\$124,444 - \$112,000)	\$12,444

Question 15:

What are the potential consequences if payment is not made on audit underpayment findings?

Answer 15:

Failure by either electing payors or designated HCRA providers to respond to an audit underpayment billing notice issued by the NYS Department of Health may result in a referral being made to the state's Attorney General to pursue legal collections for obligations established pursuant to the original billing notification. In addition to the principal amount owed, the referral will include any applicable penalty and interest as established in Section 2807-j (8) of the Public Health Law. Furthermore, failure by electing payors to respond may result in the revocation of their Public Goods Pool election.

Question 16:

How long does an auditee have to pay the delinquent payment notification resulting from an audit?

Answer 16:

An auditee has 60 days from the date of the delinquent payment notification letter sent by the Department of Health to pay. Payments should be made payable to the Public Goods Pool. Payments should be mailed to the attention of:

New York State Department of Health
Bureau of HCRA Operations and Financial Analysis
Room 984
Corning Tower
Empire State Plaza
Albany, NY 12237
Attention: Mr. Anthony Naglieri

Question 17:

Who do I contact with questions regarding an audit?

Answer 17:

If you are currently undergoing an audit, you are to contact the auditor. Otherwise, you may contact Mr. Anthony Naglieri at the NYS Department of Health, Bureau of HCRA Operations and Financial Analysis at (518) 474-1673.