

 <b>Samaritan</b> Health 830 Washington Street Watertown, NY 13601	<b>Identifying, Reporting and Returning Overpayments</b>		<b>Document No.</b> 3512
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<b>Business Units:</b>	Medical Center, Samaritan Home Health, Samaritan Keep Home, Samaritan Summit Village Assisted Living, Samaritan Summit Village Skilled Nursing, Centers and Clinics		

This Corporate Compliance Reporting and Returning Overpayments Policy is applicable to Samaritan Medical Center (SMC) and its Affiliates: Samaritan Keep Home, Samaritan Medical Practice, Samaritan Summit Village, and Samaritan Home Health (collectively, “Samaritan”).

**PURPOSE:**

To provide Affected Individuals (as defined herein) with guidance for the prompt identification, quantification, reporting, and refunding of overpayments discovered as part of routine monitoring activities, internal and external investigations or audits, documentation and coding/billing reviews, or as reported to the Chief Compliance Officer via Samaritan’s Corporate Compliance Program.

**SUMMARY:**

It is Samaritan’s obligation to promptly investigate any potential overpayment situation as a recipient of federal and state health care reimbursement funds. This Policy relates to the identifying, reporting and refunding of overpayments from Medicare, Medicaid and other government payors, and other third-party payors (e.g., commercial insurance carriers and self-pay patients).

**DEFINITIONS:**

**Affected Individuals** – All persons affected by Samaritan’s risk areas, including employees, the chief executive officer of SMC and other senior administrators, managers, and contractors, agents, subcontractors, independent contractors, and governing body and corporate officers of Samaritan, as appropriate.

**OIG** – means the Office of Inspector General under the U.S. Department of Health & Human Services, which oversees Medicare compliance.

**OMIG** – means the New York State Office of the Medicaid Inspector General, which oversees Medicaid compliance.

**POLICY:**

As part of its Compliance Program, Samaritan will return any identified overpayments to the appropriate payer, including Medicare and Medicaid. An “overpayment” is any funds that Samaritan receives or retains to which Samaritan, after applicable reconciliation, is not entitled. For purposes of this policy, an overpayment shall be considered “identified” when a person has, or should have through the exercise of reasonable diligence, determined that the person has received an overpayment and quantified the amount of the overpayment<sup>1</sup>. Voluntary self-disclosures will be guided by the OIG and OMIG provider self-disclosure protocols and Section 6402 of the Patient Protection and Affordable Care Act of 2010, in conjunction with legal counsel, as needed.

## **GENERAL INFORMATION AND OBLIGATIONS:**

An entity that has received an overpayment from federal health care program funds must report and return the overpayment to the Secretary of Health and Human Services (OIG), the State (OMIG), an intermediary, a carrier, or contractor, as appropriate, at the correct address, and notify the entity to which the overpayment was returned in writing of the reason for the overpayment.

The overpayment must be **reported and returned** within 60 days after the date on which the overpayment was identified. In very limited circumstances having to do with cost reporting, the overpayment may be reported and returned on the date on which any corresponding cost report is due, *if applicable*.<sup>2</sup>

It is crucial to report and return any Medicare or Medicaid overpayments within 60 days, as failure to do so could result in liability under the False Claims Act, imposition of civil monetary penalties, fines and treble damages, as well as exclusion from the Medicare and Medicaid programs.

Overpayments may arise in a number of ways. Examples of inappropriate payments include, but are not limited to:

- Payment exceeds the usual, customary or reasonable charge for the service;
- Duplicate payments of the same service(s);
- Billing system error;
- Discovery of an employee or other Affected Person on the excluded provider lists;
- Payment for non-covered services;
- Notification from a patient of a service that was billed, but that was not rendered; or
- Discovery through a compliance-related activity, such as a billing audit.

The procedures for reporting and returning overpayments are discussed below.

## **PROCEDURE:**

### **A. Identification of Potential Overpayments.**

1. If any Affected Person of Samaritan identifies an actual or potential overpayment, the individual shall immediately notify the Chief Compliance Officer (notification can be made

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<sup>1</sup> 42 CFR § 401.305(a)(2); Social Services Law § 363-d(6); 18 NYCRR Part 521-1.3.3(b)(2)

<sup>2</sup> 42 CFR 401.305(b)(1); 18 NYCRR Part 521-1.3.3(b)(1)

directly or through the Compliance Hotline at 315-779-5170 or 1-877-740-7070), who will conduct a review and assessment to determine whether an overpayment actually occurred and assess whether the potential for systemic overpayments exists. Employees may also notify a supervisor who in turn shall notify the Chief Compliance Officer.

2. The Chief Compliance Officer shall work with the Chief Financial Officer, members of the Compliance Oversight Committee and/or Compliance Core Groups, and other department personnel (e.g., Finance/Patient Accounts departments), as practicable, to verify if an overpayment was made. The following information shall be documented: (i) the receipt date of the overpayment(s); (ii) the amount of the overpayment(s); (iii) the specific patient account information related to the overpayment(s); and (iv) how the overpayment was calculated. Legal counsel may be consulted at any time in the discretion of the Chief Compliance Officer.

3. If it appears the overpayment is not an isolated incident and that the potential for numerous overpayments exists, the Chief Compliance Officer or designee will document and proceed with due diligence with respect to any known errors to verify the extent of any additional overpayments, which may include, but is not limited to: (i) reviewing a representative sample of claims to determine the extent of potential for overpayments; (ii) conducting a root cause analysis; or (iii) conducting further investigation to determine if a correction is needed systemically.

4. If it appears that there is a systemic problem causing errors and, therefore, overpayments, the Chief Compliance Officer may recommend a hold be placed on claims submission for the particular types of services/claims until the systemic issue can be corrected.

5. The Chief Compliance Officer or designee, in conjunction with compliance and other department personnel, as appropriate, shall document: (i) the situation surrounding the overpayment; (ii) an explanation and any evidence that supports that the matter/error was not intentional and did not involve fraud; and (iii) an action plan to assess any necessary operational change(s) to prevent reoccurrence.

6. The Chief Executive Officer of SMC (“CEO”) will be advised (i) of any non-routine overpayments; (ii) if it is determined that the potential for numerous overpayments exists; and (iii) of any overpayments that exceed, or appear that they may exceed, \$2,500.00.

**B. Reporting and Repayment of Overpayments.**

1. All identified overpayments will be reported directly to the payor that issued an overpayment and refunded as soon as possible. When possible, repayment of non-systemic and/or non-substantial overpayment shall be made electronically by Patient Financial Services through voiding or adjusting the amount of the claim(s). Any overpayment(s) that cannot be corrected through the voiding or adjustment process, including overpayments to Medicaid, shall be immediately reported to the Chief Compliance Officer as set forth herein.

2. Repayment of Medicare Overpayments. Samaritan may use any applicable claims adjustment, credit balance, self-reported refund (e.g., voluntary refund process) or other reporting process set forth by National Government Services, the Medicare fiscal intermediary, to report a

Medicare overpayment<sup>3</sup>. Typically, routine overpayments will be handled using the claims adjustment or credit balance process. Please refer any questions on which process should be used for a Medicare overpayment to the Chief Compliance Officer.

Overpayments must be **reported and returned** within 60 days after the date on which it was identified. Efforts to identify an overpayment, including quantification of the amount, should not be delayed. Any non-routine overpayments which may involve fraud or willful conduct and/or which cannot be handled through the claims adjustment, credit balance, or self-reported refund process should be immediately reported to the Chief Compliance Officer, as they may need to be self-reported via the OIG Self-Disclosure Protocol.<sup>4</sup> The Chief Compliance Officer, with assistance of legal counsel, as necessary, will determine whether self-disclosure through OIG is required.

3. Repayment of Medicaid Overpayments. Overpayments by New York State Medicaid, including both fee for service Medicaid and Managed Medicaid, must also be **reported, returned and explained** within 60 days of being identified. Providers are required to self-disclose all overpayments received from Medicaid after a full investigation confirming that an overpayment exists, regardless of whether the overpayment was the result of mistake, fraud or accident. In the event that an overpayment may not be ready to be reported, returned and explained to OMIG within 60 days of discovering the potential issue, Affected Individuals should contact the Chief Compliance Officer to discuss how the overpayment should be handled.

All overpayments of fee for service or waiver program Medicaid must be reported and explained through submission of a Self-Disclosure Statement in accordance with the OMIG Self-Disclosure Program.<sup>5</sup> The repayment of simple, more routine occurrences of overpayment may be made through voiding or adjusting the amounts of claims; however, all Medicaid fee for service overpayments must still be reported and explained through submission of a Self-Disclosure Statement, or as may otherwise be provided in OMIG guidance, with any voiding or adjustment of the claim done **prior** to submission of the Self-Disclosure Statement. The OMIG Self-Disclosure Program may only be used for an overpayment if (i) it is not related to an audit, investigation or review by OMIG; (ii) it has not been identified by OMIG at the time of the disclosure; (iii) it is reported within the 60-day deadline described above; and (iv) Samaritan is not a party to any criminal investigation being conducted by the deputy attorney general for the Medicaid Fraud Control Unit or an agency of the United States government or any political subdivision thereof<sup>6</sup>.

All potential overpayments should be immediately reported to the Chief Compliance Officer. The Chief Compliance Officer, with assistance from legal counsel, as necessary, will determine the best way to handle the overpayment and self-disclosure process to OMIG.

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<sup>3</sup> Overpayments may also be reported and returned using the voluntary repayment or “self-reported refund” process through National Government Services (“NGS”). Forms are available through the NGS website.

<sup>4</sup> <https://oig.hhs.gov/documents/self-disclosure-info/1006/Self-Disclosure-Protocol-2021.pdf>

<sup>5</sup> <https://omig.ny.gov/provider-resources/self-disclosure>; 18 NYCRR Subpart 521-3

<sup>6</sup> Social Services Law § 363-d(7)(c); 18 NYCRR § 521-3.4(b)(1).

Overpayments of Medicaid Managed Care payments may be reported and repaid to the Medicaid Managed Care Organization (“MMCO”) in accordance with the MMCO’s repayment of overpayments process in lieu of utilization of the OMIG Self-Disclosure process. All potential overpayments of Medicaid Managed Care payments should be immediately disclosed to the Chief Compliance Officer and, regardless of venue for reporting and repayment, the 60 days from identification time period applies.

4. Repayments to Payors other than Medicare/Medicaid. Repayment of overpayments for third-party payors, other than Medicare and Medicaid, identified as billing errors or through internal/external audits shall be done in accordance with the applicable payor’s policies and procedures and the contractual agreement between Samaritan and the relevant payor. In the event that a review of a potential overpayment reveals more than a routine processing error, warranting further auditing or review, billing personnel should promptly inform the Chief Compliance Officer for appropriate resolution.

5. Self-Pay Accounts. Overpayments identified on self-pay accounts shall be refunded to patients in accordance with applicable policies and procedures of Samaritan. If it is not possible to resolve the overpayment (e.g., the individual cannot be located; it is unclear to whom such payment is due), Samaritan will follow relevant New York laws pertaining to unclaimed property and/or abandoned property for resolution of the matter. Samaritan shall maintain appropriate records of unclaimed and/or abandoned property.

**C. Documentation and Notifications.**

1. Any repayment shall be documented in each patient account file. The Chief Compliance Officer must be notified of **all** overpayments related to the Medicaid program. For overpayments related to Medicare or other third-party payors other than Medicaid, as well as self-pay accounts, the Chief Compliance Officer shall be notified of all non-routine overpayments, or routine overpayments which cannot be attributed to billing error or late reimbursement. Copies of correspondence regarding repayment sent to Medicare, Medicaid and all other payors shall be provided to, and retained by, the Chief Compliance Officer.

2. The Compliance Officer, in coordination with the Chief Financial Officer, will be responsible for the compilation of overpayments returned by payor, including the total amount of the overpayment(s). The Chief Compliance Officer will provide a summary of overpayments at the request of the CEO and/or Board of Directors.

**RELATED POLICIES:**

Investigation of Possible Billing Compliance Issues

**REFERENCES:**

Patient Protection and Affordable Care Act of 2010

Social Services Law § 363-d

New York Public Health Law 32.18

42 CFR § 401.305

18 NYCRR Subpart 521-3

OMIG Self-Disclosure Program Requirements Instructions & Guidelines, Jan. 2023

Identifying, Reporting and Returning Overpayments

18 NYCRR Subpart 521-2.4

**Adopted by SMC BOT: 2/2022**

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