

Refunds for Expired Policies

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Q: I have been requested to refund an insurance payment directly from the insurance carrier. Their statement is that the policy was expired and should not have been paid. Do I have to refund the payment?

A: This request for refund of payment is not uncommon and would appear to be based on the insurance carrier's statement that the monies should be refunded. However, no refund is necessary in most instances, based on several court decisions.

Here are the facts: The City of Hope, a hospital in Los Angeles, provided medical care for Dominic Constanti. Mr. Constanti was insured by Western Life Insurance Company. The hospital obtained a standard assignment of benefits from the patient and submitted claims, which were paid by the carrier. Western later determined that the treatment was "experimental" and requested the money back.

In its decision, the California Court of Appeals said, "Stated plainly, if it's your mistake, you get to pay for it - unless the recipient misled you or accepted the payment knowing you didn't owe it." The Court also surveyed three other cases around the country, all of which arrive at the same conclusion.

In a Nebraska case, the carrier contended that it mistakenly paid claims beyond the policy limits. The Court held that the insurance company could not recover the money: "If we subjected a hospital to possible refund liability and the insurer later discovers a mistake of overpayment, lasting until the statute of limitations expires on all paid claims, we place an undue burden on hospitals. Further, the insurance company is in the best position to know what the policy limits are and must bear the responsibility for their own mistake."

In Texas, Lincoln National Life Insurance mistakenly paid claims after its policy had expired. The Court denied recovery, stating, "Here, the insurer knew its own policy payment provisions, but failed to notify the health care provider as to these provisions; and the insurer alone made the mistake of paying beyond its responsibility. The health care provider made no misrepresentations, had no knowledge or notice of the insurer's mistake, extended valuable services based on the assignment of payment by the insured, was not unjustly enriched, and simply had no reason to suspect that any of the payments for services rendered were in error. In the normal course of such business, the hospital has no responsibility to determine if an insurance carrier is properly tending to its business."

This Texas case is specific to your question. You can see that when your billings or treatments have not done anything to deceive or defraud, no refund is afforded. Essentially, the insurance carrier is in the best position to know if a policy is in effect or not and hence make claims payments accordingly. It appears to me that carriers will come after the providers, as they are the deeper pocket and are more likely to know the case rulings and make repayment.

Certainly they could go after "their" insured, since they made a payment that was technically owed

solely by the patient. Generally, they do not, as most patients will claim financial hardship or that the insurance should have caught their own mistake.

Note: This does not apply to managed care (insurance carriers for which you are a member provider). Part of the contract allows them to be refunded even if the mistake is theirs. It also does not apply to workers' compensation or Medicare claims.

Duplicate payment (paid twice for the same date of service) or true overpayments (more than the billed amount) are to be refunded. The scenario for no refund only applies when a carrier paid after the plan expired, paid more than the plan allowed or paid in-network rates when they should have been out of network, etc.

If you get this request, identify the reason for overpayment. If it was not a duplicate or true overpayment, respond to the carrier with a letter highlighting the above-mentioned legal cases. I will forward via e-mail a sample letter that you may use to respond to these types of requests, which gives the specifics of each case. For a copy, e-mail me at sam@hjrossnetwork.com.

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