

Retain Payment for Your Services! Claiming Offsets in Overpayment Appeals

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"Payer audits of provider claims are inevitable, even for the most compliant providers. The first line of defense in response to payer audits, if appropriate, is often a challenge to the asserted basis for the entire overpayment: The claim is medically necessary or the technical denials are not material to payment of the claim and should be reversed.

Case law evolving from the wave of recovery audit contractor programs in the early to late 2000s and the *Universal Health Services, Inc. v. United States ex rel. Escobar* and its progeny support a second step in payer appeals: the assertion of claims for offsets. The principle is simple: The provider should be allowed to retain the fair value of the medically necessary services rendered (the fair value received by the payer).

This article is intended to introduce provider appeal teams to the offset concept and set forth steps for the team to undertake in order to support appeals asserting this alternative claim to retain the value of medically necessary services rendered."

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