



Idaho Medical Association

January 23, 2018

MEMO NO: 02(18)
TO: Idaho Medical Association Members
FROM: Teresa Cirelli, CPC, CPMA, IMA Reimbursement Director
SUBJECT: **Idaho Medicaid's Proposed Audit Guidelines**

2017 [Resolution 109](#) – Medicaid's Use of Probability Sampling and Extrapolation directed IMA to partner with appropriate organizations to advocate for sampling and extrapolation language for Idaho Department of Health and Welfare (IDHW). IMA has been discussing proposed language with stakeholders and on January 15, IDHW Medicaid Program Integrity (MPI) Unit opened a survey to collect comments on their internal unit audit guidelines and is encouraging Medicaid providers to provide input. The MPI unit [survey](#) is open from January 15-31, 2018.

Medicaid providers can provide input on the following:

- defining what is considered "repeated or substantial" for purposes of assessing civil monetary penalties (CMP)
- describing when statistical sampling is used
- describing when overpayments are extrapolated
- describing method for calculating extrapolated overpayments
- describing when and how to extrapolate CMPs

Extrapolation is defined as a sample of claims used to estimate dollars paid in error for a universe of similar claims for a specific period of time. After the audit review identifies a percentage of errors, the error rate will be calculated to the total sample data to estimate the overpayment or underpayment for the entire sampling frame. It is the calculation of the overpayment estimate using statistical formulas. Example: 100 claims included in the audit, if 10 have an error identified, and result in an "overpayment" by Medicaid of several hundred dollars, that would result in a 10 percent error rate that could be extrapolated across the universe and could result in a demand for "repayment" of several thousand dollars.

Talking Points

IMA had the opportunity to meet with the MPI unit to decipher the language in the survey that may be perplexing or vague. MPI unit indicated they are following protocols used by CMS and OIG. MPI will utilize RAT-STATS methodology for the statistical valid sample. CMS and OIG also use RAT-STATS.

- Guideline 1: Findings of repeated and/or substantial based on audit error percentages.
 - **Proposed:** Except for certain errors set forth in Guideline 2, repeated and/or substantial error rate of 5 percent will allow an extrapolated overpayment. If 100 claims are audited and 5 claims are found to have an error, MPI could extrapolate an overpayment.
 - **IMA Comments:** CMS requires a sustained or high error rate (percentage not identified by CMS). Utah requires a 10 percent error rate. IMA will recommend at least a 10 percent error rate to be considered a high error rate in following CMS language in federal code 42 U.S.C. § 1395ddd(f)(3). A substantial error is identified in the table for Guideline 2.

- Guideline 2: Substantial findings defined
 - **Proposed:** Examples provided to indicate if the error is considered substantial or not. The list matches the same list approved in statute for the Civil Monetary Penalties (CMP).
 - **IMA Comments:** We agree with the majority of the substantial errors that should not have resulted in a claim submission to Medicaid. One area of concern is with Healthy Connection referrals. If one referral is missing a signature, this will fall under a substantial error. It is important to make sure all Healthy Connection referrals have documented signatures. We believe that it would be inappropriate, and not consistent with Idaho statute, to impose CMP for a single violation of one of the errors identified by “yes” regardless of whether that error represented a 10 percent or 1 percent error rate overall. That defies the plain meaning of “substantial” in the statute.

- Guideline 3: Repeated findings defined
 - **Proposed:** Considered repeated if the deficient conduct was also identified in a previous audit.
 - **IMA Comments:** If an error was previously identified in an audit and agreed by the practice, the deficiency should be addressed and corrected. We believe there should be a threshold under which there is no CMP even if repeated, given the likelihood of clerical and other types of honest errors. Under Guideline 3, imagine if IDHW found in Audit 1 with 100-line items that the date on one Healthy Connections referral was missing or incorrect (a 1 percent error rate). In a subsequent audit, IDHW could impose CMP if it found a single Healthy Connections referral deficient, even if the audit was of 1,000-line items, or 1,000,000 line items. The basic problem is that physicians are penalized for honest clerical mistakes and misunderstandings without regard to how widespread they may be or what improvements have been made from audit to audit.

- Guideline 4: Statistical sampling
 - **Proposed:** Statistical sampling will be used when there are more than 75 patient records in the audit and more than 500 claim lines for the time period audited.
 - **IMA Comments:** We would recommend following Utah regulations requiring an aggregate value in the claims to exceed two hundred thousand dollars (\$200,000) on an annual basis.

- Guideline 5: When overpayments are extrapolated
 - **Proposed:** Overpayments exceeding 5 percent or more will be eligible for extrapolation across the universe of claims.
 - **IMA Comments:** Following guideline one, we will recommend an error rate of 10 percent or more plus documented educational intervention before extrapolation is considered.

- Guideline 6: Method for calculating extrapolated overpayments
 - **Proposed:** The precision of the calculated extrapolated overpayment is based on a point estimate and a lower limit. MPI has combined both CMS and OIG precision to include both the point estimate and the lower limit.
 - **IMA Comments:** CMS utilizes the point estimate and OIG utilizes the lower limit. We would recommend the guidelines include one or the other.

- Guideline 7: Extrapolating CMP
 - **Proposed:** MPI will also extrapolate the civil monetary penalties in addition to the identified overpayment. MPI stated the extrapolated CMP would be less than the actual CMP applied to claim lines with errors. MPI also stated the CMP dollar rate would not exceed \$1,000 per claim line.
 - **IMA comments:** We are unable to provide an example of an extrapolated CMP vs a CMP defined for each erroneous line item. Extrapolation usually results in a higher overpayment and find that the CMP would be \$1,000 per each claim item extrapolated with an error. Without more explanation from IDHW or language guaranteeing that the extrapolated CMP would be less than that assessed without explanation, we believe Guideline 7 could result in CMPs in the thousands of dollars for an error that caused an overpayment of hundreds of dollars or less. We are also questioning the legality of extrapolating the CMP which was not provided in the statute language updated in 2016. That language limits CMPs to those services “improperly claimed,” not those services statistically estimated to have been improperly claimed.

Egregious errors should be considered overpayments and IDHW should collect the money back to protect the taxpayer’s dollars that help fund Medicaid. Honest errors that can be corrected through education or additional documentation to show a service was provided and paid correctly should not be calculated towards an overpayment. By accepting Medicaid patients, physicians are providing a service to the underserved population and IMA believes most errors can be corrected through education and refunding incorrectly processed claims. CMP should not be calculated on honest errors.

If you have questions regarding the Medicaid proposed audit guidelines or the IMA resolution 109(17), please contact IMA Reimbursement Director Teresa Cirelli, CPC, CPMA at teresa@idmed.org or Kim Burgen, CPC, CPMA at kim@idmed.org or call (208) 344-7888.