

# Credit Balances & Hidden Risks



# Agenda



## Credit Balances 101

What are credits and how are they created?



## The Hidden Risks

Whistle-blowers, negative press, fines and more.



## The Legalities

Rules & regulations, case law, OIG guidance, and more.



## Best Practices

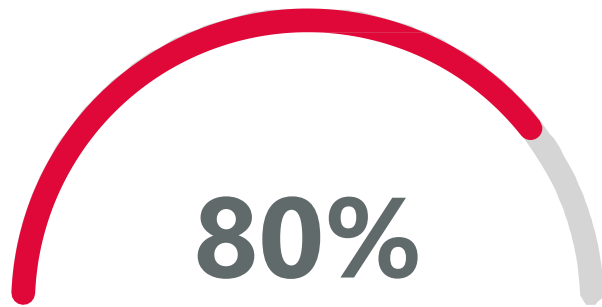
How can you eliminate credits once and for all?



# Credit Balances 101

# 500M New Credits Created Annually

Hundreds of millions of credits are created each year, but most are not true overpayments



Caused by accounting errors

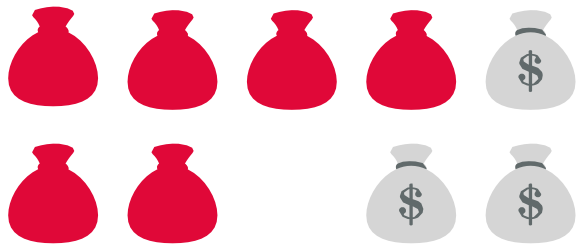


Actual overpayments

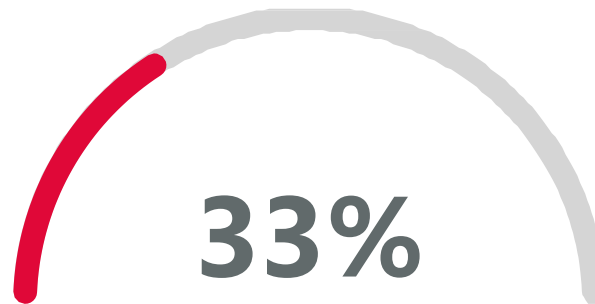
Providers don't have the resources to keep up with new credits being generated, resulting in massive backlogs often going back 5+ years.

# 100M Medical Refunds Due Annually

Providers are absorbing the high cost of millions of refund checks being sent monthly



\$7+ to send a refund check



Checks are never cashed

Refund checks are costly, antiquated, wasteful, and misaligned with patient expectations.



# The Impact On Providers

## **\$7 Back for Every \$1 Spent**

Commercial payers focus on recovery efforts, not eliminating credits.

## **\$1 Billion+**

The amount CMS claws back from hospitals annually.

## **40%**

The amount of inappropriately solicited refunds by payers.

## **\$3 Trillion**

The amount CMS intends to earn in provider fines over the next decade.



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## **\$4.4 Million**

The average hidden cost absorbed by a hospital working credits internally.

## **\$250**

The average credit balance amount. Traditional vendors refuse to work amounts this small.

## **\$10,000 Per Day**

The daily penalty applies to each CMS credit over 60 days old.

## **\$400 Million +**

The amount inappropriately refunded to payers by "free" credit balance services annually.



# What Is A Credit Balance?

Any Account In A Negative Balance

## Posting Errors

Double posted payment or adjustment, resulting in a credit balance that isn't an overpayment.

## Duplicate Payments

Multiple payments for the same DOS, resulting in a credit that MAY be an overpayment.

## COB Errors

COB misapplied, resulting in a credit that MAY be an overpayment.

## Patient Overpayments

Over-collecting on deductible or coinsurance, creating a credit that IS typically an overpayment.



# What Is An Overpayment?

Payments Received In Excess  
Of The Amount Due

## **Warning 1**

Not all overpayments result in a credit balance, you must be able to identify these.

## **Warning 2**

Only about 15% of credits are the result of an overpayment, don't trust all solicited refunds.

## **Benefits Exhausted**

Benefits have been exhausted per contract. This won't be a credit balance account but must be resolved!

## **Stark Law**

Payments made during period of "disallowance." This won't be a credit balance account but must be resolved!



# Types of Credits

## **Patient**

Copays & Deductibles

## **Commercial**

Big and small payers, TPL, Self Funded

## **Government**

Medicare & Medicaid



# The Hidden Risks



# Financial Risks



## **Payer Contracting**

Insurance credit balances often come up in contract negotiations, creating leverage for the payer to impose harsher requirements on the provider.



## **Fines & Penalties**

Failure to timely and accurately process all credit balances can result in significant fines, withholding of money and even imprisonment.



## **Lost Revenue**

Credit balances often camouflage billing opportunities due to misposting.

# Negative Publicity

**When managed improperly, credit balances can lead to audits, investigations and penalties that may reflect negatively on your organization to the public.**



An OIG report in 2017 found Rush University Medical Center did not comply with Medicare billing requirements for certain rehabilitation claims submitted over a two-year period. As a result, Rush's Medicare administrator contractor recouped \$10.3 million from the hospital in 2018, according to the financial filing.



On October 13, 2017, the DOJ announced that it had reached a \$450,000 settlement with First Coast Cardiovascular Institute, P.A. (FCCI) of Jacksonville, Florida in a qui tam lawsuit alleging that FCCI failed to promptly return identified overpayments from federal health care programs after the overpayments came to the attention of the practice's leadership.





# Whistle Blowers

**Since 1987, Whistle-blowers in healthcare have won \$7.3B in Qui-tam lawsuits. These are typically former employees.**



# The Hidden Rewards



# Hidden Rewards



## Better Contracts

Leverage your refunds to negotiate better contracts.



## State Laws

State laws MAY exist that allow providers to keep an overpayment in certain circumstances.



## Realized Revenue

Fewer dollars set aside for reserves and fewer FTE hours wasted on credits means more realized revenue.



# Credit Balance Legalities

**Definitions**

**Rules &  
Regulation**

**Case Study**

**OIG  
Guidance**

**Case Law**

The background is a grayscale image of a medical setting. A stethoscope is visible in the lower center, resting on a clipboard. The upper portion of the image is overlaid with various white line-art graphics, including a hexagonal grid with icons, a circular target-like graphic, and several line graphs showing trends. A solid red horizontal bar is positioned above the text box.

# Defining 'Overpayment'



# Defining Overpayment

**Receipt or retention of  
any payment to which a  
provider is not entitled.**

## **Warning**

A provider may receive an overpayment through no fault of their own.

## **Common Reasons**

Up-coding, lack of documentation.

## **Less Common**

Failure to comply with reimbursement rules, whether intentional or unintentional.

## **Dangers**

Violations of the anti-kickback statute stark law civil monetary penalties.

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# Defining 'Identified'



# Defining Identified

An overpayment is considered "Identified" when a person acts in the following manner(s):

## **With Actual Knowledge**

Suggests that an overpayment was discovered.

## **In Deliberate Ignorance**

Suggests that potential overpayments have been deliberately ignored.

## **With Reckless Disregard**

Suggests an overpayment was discovered and intentionally not resolved.

The background is a grayscale image of a medical professional's hands holding a stethoscope over a patient's chest. Overlaid on this are various white line-art graphics: a hexagonal grid with icons on the left, a circular target-like graphic in the center, and a jagged line graph on the right. A solid red horizontal bar is positioned above the text box.

# OGI Guidance



# Guidelines On Credits

**Billing entities should institute procedures to provide for timely and accurate reporting to both the provider and the health care program of over-payments."**

## **Providers**

A Provider MUST refund ALL monies to patients and the Federal Government in a timely fashion.  
(Generally, within 60 days.)

## **Payers**

Commercial payers are NOT governed by this ruling.

## **RISK FACTORS**

### **Inadequate Resolution of Overpayments**

Per OIG, it is "inappropriate to keep over-payments until specifically asked to return them or until payors have withheld them from subsequent payments."



# Self-Reported Overpayment Refund Protocol



## Discovery

How was the error found?



## CAP

What process is in place to avoid this in the future?



## Reasoning

The way and what behind the refund



## Problem Period

Time-frames and amounts



## Methodology

How was the amount calculated + other relevant factors?

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# Rules and Regulations

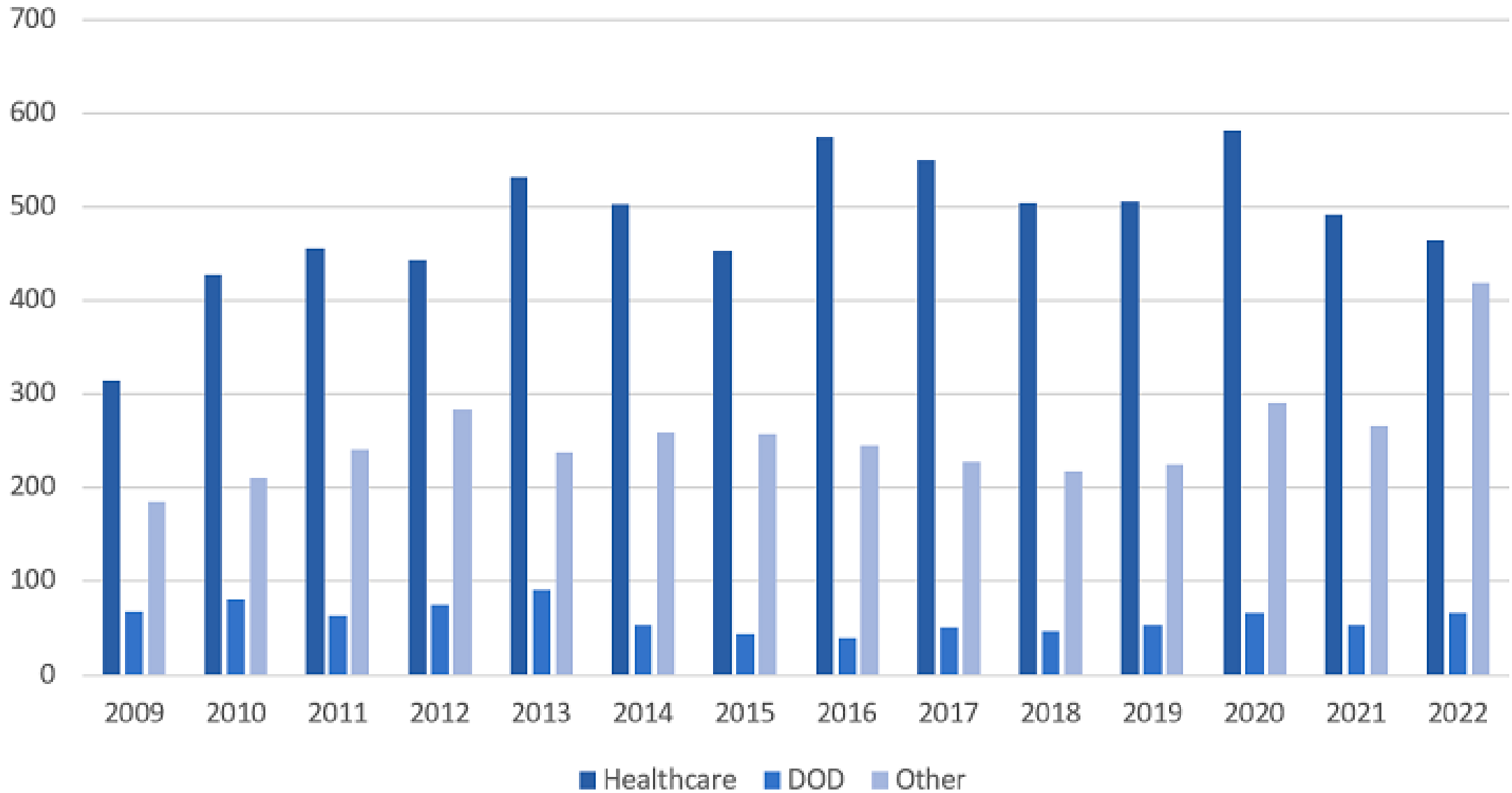
# False Claims Act

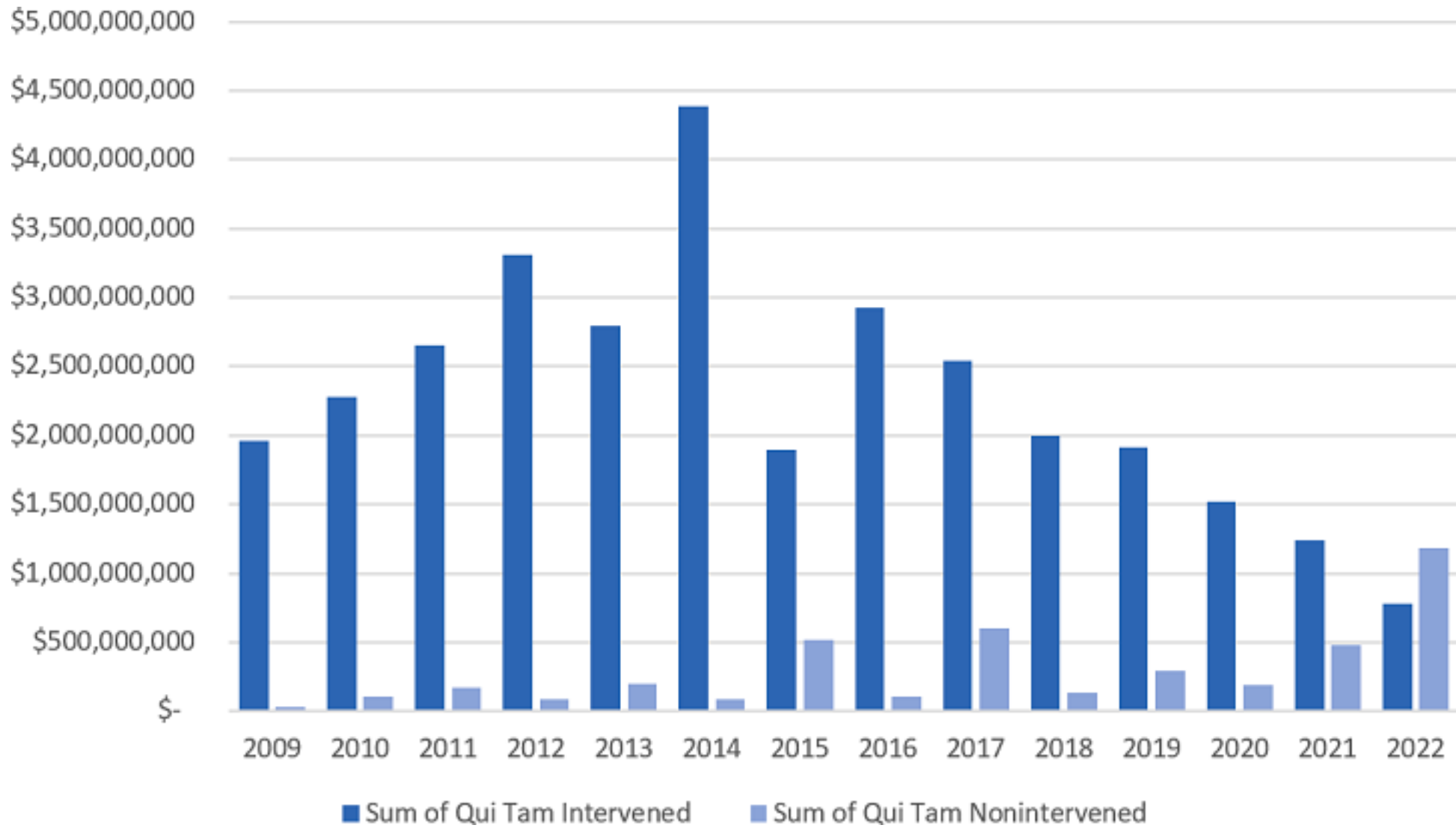
**Hundreds of millions of credits are created each year, but most are not true overpayments**

Liability for anyone who used a "false record" or "statement" and for individuals who conceal, avoid or decrease an obligation to pay money to the government

Civil penalties \$5,500 to \$11,000 per false claim, plus treble damages

Criminal penalties up to five years and \$250k per occurrence for individuals and up to \$500k per occurrence for Corporations





Source: <https://www.hklaw.com/en/insights/publications/2023/02/dojs-annual-false-claims-act-statistics>

# Fraud Enforcement & Recovery Act

Amended the “reverse false claims” (i.e., over-payments) provisions to expand liability to “knowingly and improperly avoid[ing] or decreas[ing] an obligation to pay or transmit money or property to the Government”

Department of Justice

U.S. Attorney’s Office

Southern District of Florida

SHARE 

FOR IMMEDIATE RELEASE

Thursday, June 28, 2018

**Southern District of Florida Charges 124 Individuals  
Responsible for \$337 Million in False Billing as Part of National  
Healthcare Fraud Takedown**



# State Laws

Each state has its own  
overpayment statues  
and standards.





# Maryland

## Relevant Statute

**M. A. Code section 15-1008**

## Time Period

**6 Months | 18 Months when COB is involved**

## Exemptions

No limit for 1. Fraud, 2. Improperly coded, 3. Duplicate Payment, 4. a claim submitted to MCO & the claim was for services provided to a MD Medical Assistance Program recipient during a time period when Program has permanently retracted the capitation payment for the Program recipient.





# Case Law

# Legal Precedent is Set

**The 60-Day Rule Validated  
DOJ Rules: "Healthcare  
providers must have policies  
and procedures in place to  
ensure compliance with the  
60-day Repayment Rule."**



## **Fines 3x the Overpayment Amount**

Providers that fail to repay identified overpayments within 60 days of identifying them may be subject to false claims penalties of triple the overpayment amount, with additional fines up to \$11,000 per claim, and possible exclusion from federal healthcare programs

## **\$24M Penalty**

A New York hospital system is facing claims for almost \$24,000,000 based on the failure to timely repay approximately one million dollars in overpayments caused by a software glitch.

## **\$7M Settlement**

A physician group recently agreed to settle a case for almost \$7,000,000 based on allegations that it retained credit balances on its books related to claims it had submitted to various federal health care programs.



## **\$3M Settlement**

**Kane v. Healthfirst, Inc**  
False Claims Act Settlement

Primary Cause: Software Glitch

## **\$237 Settlement**

**USA v. Tuomey Healthcare System**  
**Stark Settlement**

Primary Cause: Contracting Failure. Failed to refund and re-bill for Inappropriately contracted physicians

## **\$7M Settlement**

**USA v. Pediatric Services of America**  
**ACA Overpayment Rule**

Primary Cause: Converting Credits to Revenue Failed to research and resolve credits

## **\$450M Settlement**

**USA v. First Coast Cardiovascular**  
**ACA Overpayment Rule**

Primary Cause: Wrongfully Delayed Repayment of approximately \$175,000 in potential overpayments to federal health care programs beyond 60 days

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# 838 & RAC Audits



# RAC Audits

## Recovery Audit Contractors



### **What are RACs?**

Recovery Audit Contractors (RAC) are private companies contracted by CMS to find Medicare overpayments.

### **Can they be avoided?**

RAC audits CAN be appealed, avoided and prevented.

### **Do I have to comply?**

Yes, you are required to comply with CMS' credit balance regulations.

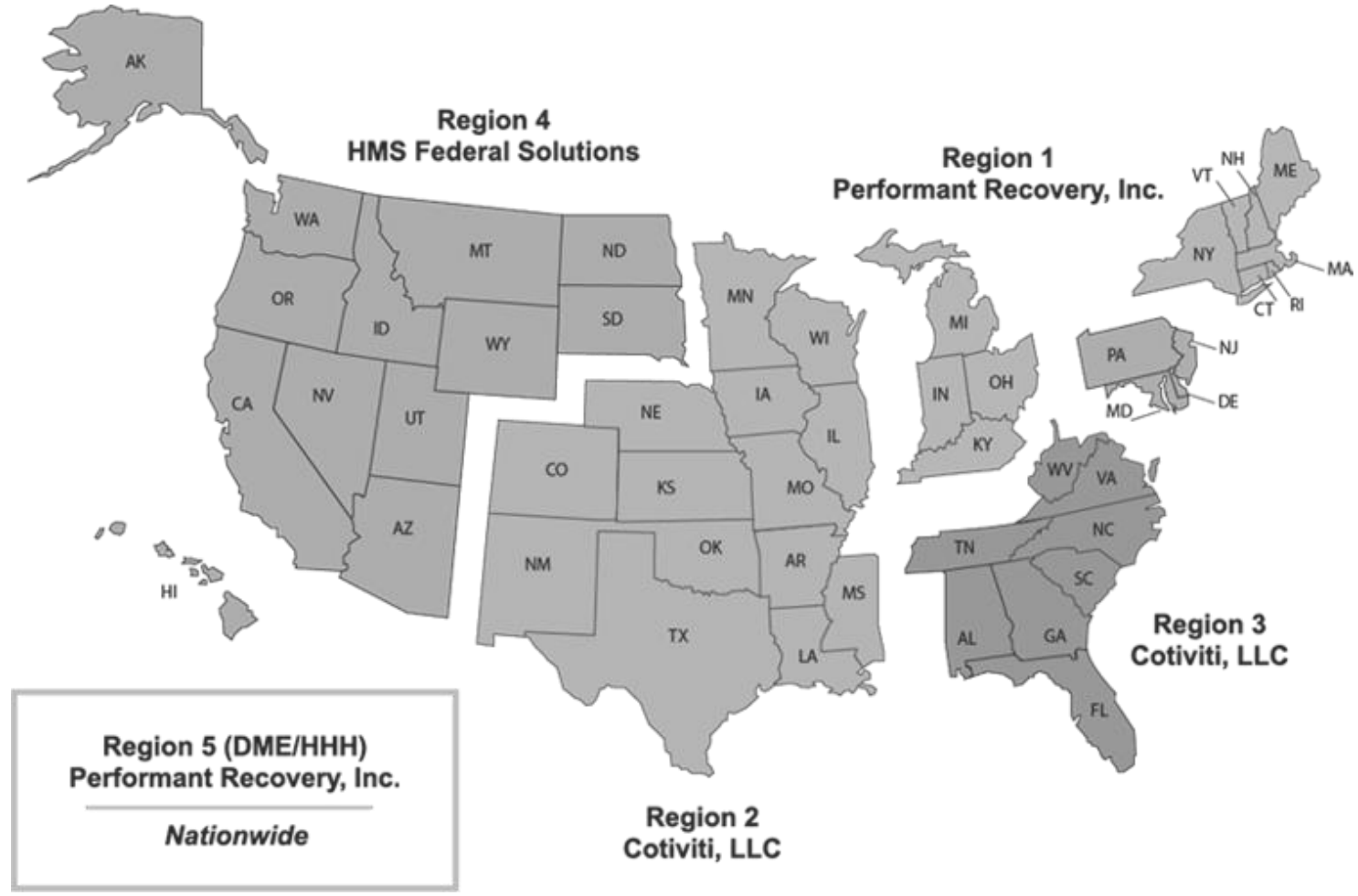
### **Do RAC audits occur often?**

RAC audits are seldom single occurrences.



# RAC Audits

## Recovery Audit Contractors





# Credit Balance Best Practices



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**Create Reports**

# Reporting



## Create a Report

**Create a report of all open credit balances to include:**

- The date the credit was identified (placement date) and current age Account Identifiers
- Account Number, MRN, etc.
- Current Balance Should be negative

## Dig Deeper

**Report on EACH account at the transaction level:**

- All involved payers Charges/transactions
- DOS, MRN, etc.
- Payments
- Dates, Payor(s), amount



# Getting Started

**Choose a Starting Point**  
Using the reporting developed, choose a starting point.

## **Large Dollars**

**Allows you to cut AR days quicker.**

## **Old Accounts**

**You may find accounts that need to be escheated or can even be converted to revenue.**

## **Small Dollars**

**Small dollars within small balance threshold? Develop scripts to wipe these clean effectively. This is a huge volume reduce and an immediate lift.**

# Who Does The Work

Using the reporting developed, choose a starting point.

## Downstream Considerations

- Quality Audit
- Management Approval
- AR, etc.

## Internal Staff

- Are they qualified?
- They must possess a strong knowledge of credits.
- Must have capacity to do the work

## Vendor

When shopping vendors, there are a few approaches:

- Payer-Aligned
- Bolt-On Software & RPA Comprehensive





# Types of Vendors

There are various approaches taken by vendors, it is important to know the differences.

## **Payer Aligned**

These vendors contract with payers to work a small subset of commercial accounts only

## **Bolt On Software**

With software solutions, your staff works credits through a vendors tool.

## **Comprehensive**

Work ALL types of credits for a fee paid by the provider, also prioritizes root cause prevention.



# Prioritize Resolutions

Now it's time to determine which accounts need to be worked first.

## **Government Credits**

**Work these accounts first, due to the 60-day rule and other relevant legislation.**

## **Patient Credits**

**Work these accounts next in order to Improve NPS, patient satisfaction and other relevant metrics.**

## **Commercial Credits**

**Work these last! Consider contractual obligations and state statutes that may override the contract.**



## **Solicited Refunds**

Investigate ALL requests for refunds or notifications of recoupment/take-backs. Consider your contractual obligations and state statutes that may allow you to retain the overpayment.

Mitigate take-backs by working these in a timely fashion.

## **Payer Refund Solicitation Letter**

State laws MAY exist that allow providers to keep an overpayment in certain circumstances.

## **3<sup>rd</sup> Party Vendor**

A third-party vendor working credits in your system requests a refund, consider the following:

- Reprocess
- Communicate
- Document
  - Appeal

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# Protocols & Quality Control

# Establish Protocols



## Root Cause Analysis

Determine Root Cause  
Document Everything  
Take Corrective Action

## 60 Day Rule Reporting

Establish controls to ensure effectiveness and sufficiency of reporting.  
**Fines for failure here average \$300k per credit balance account**

## Payer Contracting

Establish controls to understand your payor contracts and comply accordingly.  
Consider software or 3rd party tools to establish a single source of truth.

## Unclaimed Property

Unclaimed property obligations by state. Sufficiency of compliance

**THANK YOU!**

**Questions?**