

Medicare and Medicaid Audits, Appeals, and Reimbursement Litigation

Securing and protecting the revenue and reimbursements to which providers are entitled involves affirmative and aggressive action to remedy underpayments, as well as robust advocacy in response to Medicare and Medicaid audits and recoupment efforts. With more attorney years of Medicare and Medicaid reimbursement litigation, audit, and appeals experience than any other firm in the country, Hooper, Lundy & Bookman is a powerful and effective force on the health care industry's financial front lines.

The government's scrutiny of health care providers' billing and payment practices is unlike anything faced by any other industry. An alphabet soup of agencies, boards, and contractors pursue intensive and invasive audits to identify what they argue is overbilling or other alleged issues with Medicare and Medicaid claims as a precursor to efforts to recover substantial sums from providers. Often, those sums never come in the first place, requiring providers to pursue payments and reimbursements through litigation or by challenging the Medicare and Medicaid policies that lead to underpayments.

HLB's Medicare and Medicaid audit, appeals, and reimbursement litigation attorneys understand that their efforts directly impact our clients' abilities to serve patients. Our team includes some of the foremost practitioners in this nuanced area of the law, with decades of hands-on experience protecting and advancing our clients' interests and bottom lines at every stage of the process. Whether representing individual providers or multi-hospital health systems, we possess a unique and robust set of capabilities that makes us the firm of choice for some of the country's leading healthcare providers.

Our lawyers have unmatched experience in reimbursement audits, litigation, and appeals involving Medicare and Medicaid underpayments, claims denials, cost report disputes, enrollment controversies, redeterminations, and payment suspension and recoupment actions. HLB combines a deep bench of attorneys who focus their practices on reimbursement matters with those who have an extensive understanding of the distinct billing and payment issues faced by different types of providers, from expansive hospital and health systems to skilled nursing facilities, hospices, home health care providers, and clinical laboratories.

HLB's experience and capabilities extend to state-level as well as federal audits and appeals. We regularly obtain favorable outcomes in Medi-Cal audit appeals, for example, resulting in millions of dollars in recoveries for provider clients.

Because HLB attorneys have been involved in countless Medicare and Medicaid program changes over the past two decades, we have curated a unique set of resources, including an extensive library of formal and informal agency rulings and guidelines not generally available. These resources are critical to interpreting complex Medicare and Medicaid reimbursement laws, regulations, and sub-regulatory guidance. Similarly, we have briefed numerous issues and position papers in past cases. By using these as templates, we frequently save clients considerable expense and time.

Preparing and Protecting Providers in All Types of Medicare and Medicaid Audits and Appeals

When auditors come calling, we recognize what's at stake and understand the financial and operational implications of their conduct and conclusions. Our attorneys have a comprehensive understanding of payment principles and have represented providers through all phases of an audit, from responding to the auditors' entrance letter to litigating writs and appeals of final administrative decisions.

HLB works closely with clients to develop and implement audit response strategies focused on addressing auditors' concerns, clarifying areas of ambiguity, and resolving issues before they metastasize into even more disruptive and costly disputes,

litigation, and appeals. If claims do arise, the spadework we do during the initial audit puts our clients in the best positions for positive outcomes and successful appeals later in the process.

We regularly prepare providers and guide them through audits and investigations conducted by:

- Unified Program Integrity Contractors (UPICs), which encompass both the historical ZPICs and Medicaid Integrity Contractors
- Recovery Audit Contractors (RACs)
- Medicare Administrative Contractors (MACs) (i.e., Targeted Probe and Educate (TPE) Audits)
- The Centers for Medicare and Medicaid Services (CMS)
- Office of Inspector General (OIG)
- Health Resource and Services Administration (HRSA)
- Federal and state Departments of Justice (DOJ), including Medicaid Fraud Control Units (MFCUs)
- State inspector generals and regulatory agencies

Perhaps most importantly, because our lawyers are well-versed in the 60-Day Rule and the defense of fraud and abuse cases, we offer guidance on how to respond so as to minimize the likelihood of further government scrutiny.

For claims appeals, our comprehensive Medicare and Medicaid audit and appeal representation includes representation through all levels of appeals, including initial submission, redetermination, reconsideration, Administrative Law Judge hearings, Medicare Appeals Council, and Federal District Court. We couple this with practical compliance tips for our clients to prevent future problems.

Strategic Medicare and Medicaid Reimbursement Litigation Efforts

HLB leverages our reimbursement expertise to favorably resolve disputes with government payors and negotiate settlements with state and federal agencies. When negotiated resolutions fail to bear fruit, our litigation efforts have secured significant recoveries for providers across the country.

HLB's Medicare and Medicaid reimbursement litigators consistently obtain positive results before the Provider Reimbursement Review Board, in administrative hearings or arbitration and mediation proceedings, through managed care grievance processes, and in state and federal court. These payment disputes have involved individual hospitals, statewide class actions, and national efforts comprising over 1,300 facilities. For decades, we have successfully prosecuted multi-provider Medicare group appeals through all phases of the administrative appeals process and in federal court, seeking and obtaining significant additional Medicare payments for our clients on a wide variety of reimbursement issues.

Our lawyers have immersive procedural knowledge and vast experience with these nuanced matters. We know the strategies and approaches that work because we have used them in countless disputes and cases involving efforts to obtain or recover substantial sums for our provider clients.

In addition to our reimbursement efforts on behalf of our provider clients, HLB also works on a macro level to challenge and change reimbursement policies and practices that adversely impact the industry. Our trade association advocacy and well-established government relations and public policy practice spearhead our efforts to shape the payment and reimbursement landscape in ways beneficial to providers as well as the patients they serve.