

## Takebacks and Extrapolation: Can you survive this New Ploy?



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As reimbursements for our services shrink, especially amid the 5.4% Medicare cuts, and malpractice premiums skyrocket, insurance companies are now claiming takebacks on previously paid claims. The

Academy and the Board of Governors have jointly taken on this matter as a priority to investigate this ploy by the insurance carriers that threatens the livelihood of our members and reduces the level of care for our patients.

### What is a takeback ?

It is the demand by an insurance carrier that a previously paid clean claim was overpaid due to incorrect coding by the physician and a demand or takeback of the so-called overpayments. In other words, the insurance carrier requires the physician to repay the so-called overpaid claim within a certain period of time by either sending a check or having future payments deducted. Further, if the physician does not comply, the insurance carrier seeks arbitration in which a significant percentage of the full amount is ordered paid back. If a physician does not pay back after a given period of time, he/she is threatened with fraud and misconduct, and in New York, the carrier threatens to notify the Office of Professional Misconduct (OPMC) which becomes a serious matter for the physician and results in an automatic review by the OPMC.

This situation is currently prevalent in

New York where a major carrier has demanded takebacks from several otolaryngologists and other specialists seeking hundreds of thousands of dollars in payback. More intrusively, there have been instances where this same insurance carrier has audited five to 15 charts using an expert coder. The carrier evaluated the chart and determined a discrepancy between that of their coder and the physician's. For example, the doctor may have entered an E&M code three or four for a consultation, and the coder interprets it to be either a 2 or three. The carrier then extrapolated over a five to six year period and demanded a huge payback in the thousands of dollars.

The Board of Governors takes issue with this **unfair business practice** on many levels.

1. Is **extrapolation** fair and legal?
2. Is it fair to extrapolate over a period of five or more years?
3. Is it fair to **audit** a few charts many years after a clean claim was paid and demand repayment based on extrapolation?
4. Is it fair to reverse a clean claim and demand this huge payback?

In my opinion, there should be no takebacks on a clean claim. If an audit is done, it should be done on charts that are a maximum of 90 days old or, at the absolute maximum, a year old to accommodate rare cases of computer errors. Extrapolation is unfair and should not be used. Rather, carriers should audit charts that are considered overpaid and only request payment on unclean charts. Clean claims should not be tampered with. Prompt payment must be enforced,

and carriers must pay within a period of 45-90 days. Following this payment date, they should have an additional 90 days to audit and reevaluate an unclean claim. I feel that clean claims should be regarded as final payment after 90 days.

**How much more can you endure?** After years of continued down coding, slow payments, and denial of claims, we are now being inappropriately and unfairly scrutinized by the perpetrators themselves. Florida, New Hampshire, Missouri, Utah, Maryland, and Kentucky legislators are sympathetic to the takeback issue and are currently considering legislation establishing time limits on takebacks. We must alert our legislators to this serious problem and encourage them to consider legislation to terminate unfair business practices. Be sure to stress the risk this unfair practice has on your ability to effectively treat your patients. Lack of funds will ultimately bankrupt your practice, which will disenfranchise your patients. If we do not act now, other carriers will utilize this unfair method of demand.

In the interest of the membership, the BOG and the Academy Leadership will continue to monitor this situation to investigate ways in which we can effectively and appropriately deal with this problem. Please notify the BOG about any information that you have with respect to the problem of auditing, extrapolation, takebacks, and arbitration in your state. Your prompt attention to this matter is vital to our success in this endeavor.