



medicare

Health Insurance Amendment (Compliance) Act 2011

The Health Insurance Amendment (Compliance) Act 2011 started on 9 April 2011.

Frequently Asked Questions

What is the new law?

The new law allows the Department of Human Services to issue a formal notice for you to produce documents that substantiate your services under the Medicare program should there be a reasonable concern that a benefit has been paid that exceeds the amount that should have been paid. The new law also allows for penalties to be applied for incorrect payments or unsubstantiated services.

In addition, the new law gives you the ability to request a review of decision for any audit findings determined by a Department of Human Services' Medicare program compliance audit.

When does the new law start?

The law is not retrospective and only applies to professional services that are provided on or after 9 April 2011.

Does the new law apply to me?

The new law applies to all health professionals, including specialists and allied health professionals, who are able to claim under the Medicare program.

When will I get a notice to provide substantiating documents?

When the Department of Human Services audits your Medicare services, you will be given an opportunity to voluntarily respond to the compliance audit before a formal notice to provide substantiating documents is issued.

If you do not voluntarily provide substantiating documents within the required timeframe or if you provide documents that verify only some of the services under review, the Department of Human Services can send you a formal notice to provide substantiating documents.

Do I have to keep extra records?

The new law does not make any changes to the record keeping requirements. You should keep adequate and contemporaneous records. Medicare may require a health professional to provide documents substantiating services for up to two years under the new legislation. Your relevant professional peak body may also provide guidance about record keeping that is appropriate for your practice.

Will I have to provide clinical records?

You do not have to provide documents with the clinical details of a patient unless the information is necessary to substantiate a service. If you do need to provide clinical details, you can provide an excerpt with only the relevant details. You can also choose to provide any documents with clinical information to a Department of Human Services medical adviser.

What if someone else manages my records?

A notice can be issued to any person in possession or control of your documents. If this person does not comply with a request they can be subject to a civil penalty. A notice cannot be issued to a patient.

What if I don't agree with the outcome of a compliance audit?

You will be advised in writing of the outcome of the compliance audit before a debt is raised.

If you disagree with the outcome of a compliance audit you can lodge an application for a review of decision. You will need to submit your application within 28 days of receiving the notice of decision that amounts are recoverable and provide any additional information and substantiating documents. The Department of Human Services will respond to your application within 28 days after receiving your application.

The approved application form for a review of decision is available on the Department of Human Services' website.

What is an administrative penalty?

If a compliance audit finds that services paid under the Medicare program should not have been paid or have not been substantiated and the total amount of any incorrect payments or unsubstantiated services is more than \$2500 an administrative penalty may apply.

The base rate for the administrative penalty is 20 per cent of the amount repayable.

How can I avoid an administrative penalty?

You will not have to pay an administrative penalty if you tell the Department of Human Services that an incorrect amount has been paid before you are audited.

Once a compliance audit has started you will still have the opportunity to tell the Department of Human Services that an incorrect amount has been paid to receive a reduced penalty. How much the penalty is reduced by will depend on when you tell the Department of Human Services about the incorrect payment.

If a compliance audit has started but you have not yet received a formal notice to produce substantiating documents and you voluntarily tell the Department of Human Services you received an incorrect payment, the administrative penalty will be reduced to 10 per cent.

If you have received a formal notice to produce substantiating documents, you can voluntarily tell the Department of Human Services about an incorrect payment to reduce the administrative penalty to 15 per cent. This must be done before the timeframe to respond expires.

The approved form is available on the Department of Human Services' website for you to voluntarily provide details about incorrect payments.

What about the privacy of my patients?

The Department of Human Services takes privacy seriously and has IT infrastructure and security arrangements in place to safeguard your information and the information of your patients.

Personal information collected and held for the purpose of audits of Medicare services is protected by the *Privacy Act 1988* and the secrecy provisions of the *Health Insurance Act 1973*.

For more information:

visit www.medicare.gov.au then
**For health professionals >
Doing business with
Medicare Australia >
Compliance > IMCA Initiative**

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