

Alaska Medicaid Audits

Legal Alert
June 22, 2009

Garvey Schubert Barer Legal Update, June 22, 2009.

After a six-month hiatus it appears that the Alaska Medicaid Audits performed during the last year will soon be issued. Some are estimating that as many as 60 audits will be issued during the next six weeks, i.e. through July 31, 2009.

Following the State's audit of a healthcare provider's records, the State is required to send the provider the "preliminary findings of the audit." 7 AAC 43.1440 (f). The preliminary findings will not identify any overpayment amounts claimed by the State but will identify areas where the auditors are proposing audit adjustments. Upon receipt of your preliminary findings, you or your consultant should review the findings for accuracy. The provider has 30 days after the date of the preliminary findings to submit additional documentation to the auditors or otherwise respond to the preliminary findings requesting a change in the proposed adjustments.

If you are unsure of the basis for any of the proposed audit adjustments you should submit clarifying questions to the auditors. There is no guarantee the auditors will respond to your questions but it is important that you ask the questions anyway so you know the basis for the audit adjustments.

The State will issue your final audit report within 30 days after it has considered any additional submittals you made in response to receipt of your preliminary findings. If you believe that the auditors committed an error you may want to appeal your audit results. Your audit letter should include instructions on how and when to file an appeal.

An appeal of the final audit report must be filed in the office of the Commissioner of the Department of Health and Social Services within 30 days after the date of the final audit report. 7 AAC 43.1490 (b)(2). It is **critical** that your appeal be filed within the time limit specified or you may be forever precluded from appealing your audit results. The 30 day time limit is an extremely short period of time within which to gather all of the materials you must submit in order to file your appeal.

Garvey Schubert Barer has substantial experience in responding to Alaska healthcare provider audits. Stephen Rose was lead counsel for the first successful challenge to Alaska Medicaid audits being used to retroactively alter Medicaid payment rates. *Cordova Community Hospital and Petersburg General Hospital v. State of Alaska, Medicaid Rate Commission*, 789 P.2d 346 (Alaska 1990).