

## HOSPICE MEDICARE & MEDICAID AUDITS



Our Hospice Audit team has led the way in the vigorous defense of hospices in payor audits for over a decade, with consistently successful outcomes. Whether the audit relates to Medicare, Medicaid or Medicare Advantage programs, the Hospice Audit team has the experience and skill to obtain the best result possible.

The Hospice Audit team has also developed a number of analytical tools, including charts, guides, tracking spreadsheets, and tip-sheets for use by hospice personnel. These tools, together with our attorneys' unrivaled experience in hospice audit, allows the Hospice Audit team to vigorously represent hospices in an efficient and cost-effective manner.

### Hospice Audits Overview

The Hospice Audit team's expertise extends to every issue that arises in audits, including complex medical review, documentation requirements, and applicable legal and medical standards.

**Audit insights:** The Hospice Audit team's extensive work on audits of all kinds allows us to answer your questions regarding who is auditing, how they audit, typical audit results and how to preempt or appeal them, current trends in hospice audits, and how to develop a bespoke optimal strategy.

**Hospice knowledge:** The Hospice Audit team works with hundreds of hospices every year and knows how hospices

*Big thanks to Meg Pekarske and the Husch Blackwell team for their assistance with a recent matter. The team's expertise in, and passion for, hospice matters was evident from the start. They are a great legal team.*

— Lavonne Noel,  
Executive Director,  
Hospice of Dubuque

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work. The Hospice Audit team leverages its extensive experience with the business of hospices, complex medical conditions, the intricacies of necessary documentation, and the web of laws and regulations to “speak the same language” as hospice leadership, physicians, clinical staff, billing personnel, and others to mount the strongest audit defense possible.

**Extrapolation audits:** The Hospice Audit team also regularly represents hospices in the face of financially crippling “extrapolated” audits, in which the denial of a relatively modest number of claims is statistically extrapolated to result in millions or tens of millions of dollars in overpayments. The Hospice Audit team has eliminated over 90 percent of the extrapolated audits it has challenged, saving hospices nearly \$200 million.

**Alternative dispute resolution (ADR):** The Hospice Audit team is well-versed in assessing settlement opportunities that meet the hospice’s objectives. The Hospice Audit team has worked to achieve successful partial and full settlements and resolutions through the following:

Qualified Independent Contractor (QIC) Telephone  
Demonstration Project

Office of Medicare Hearings and Appeals (OMHA)  
Settlement Facilitation Conference (SCF)

Medicare Administrative Contractor (MAC) Extended  
Repayment Schedule (ERS) Process

Centers for Medicare & Medicaid Services (CMS) Division of  
Debt Resolution

Department of Health and Human Services (DHHS) Office

of Inspector General (OIG)  
Department of Justice (DOJ)

## Medicare Audits

The alphabet soup of Medicare audits has expanded over the years, and the Hospice Audit team has seen them all. Unified Program Integrity Contractor (UPIC), Supplemental Medical Review Contractor (SMRC), Center for Program Integrity (CPI), Targeted Probe and Educate (TPE), and Medicare Administrative Contractors (MAC) medical reviews demand a thoughtful and forceful response from hospices. The Hospice Audit team has fought for hospices each step of the way, from the initial record request through the entire appeal process.

View our hospice Medicare strategies for success.

## Medicaid Audits

Medicaid audits involve a unique combination of federal and state authorities and processes. The Hospice Audit team has stood up to federal Medicaid auditors and fought for hospices across the country in a variety of distinct state venues, from the initial record request through the entire state appeal process.

See our hospice Medicaid advocacy in action.

## Federal OIG Audits

Among the most daunting of audits are those performed by the federal DHHS Office of Inspector General (OIG), for two reasons:

First, the OIG's standard practice is to extrapolate its audit results, regularly leading to alleged overpayment amounts of millions or tens of millions of dollars.

Second, unlike other audits, the OIG publishes its audit results on its website, for the public to see.

The Hospice Audit team represents hospices in OIG audits, applying its audit experience and guiding a public relations strategy designed to address the unique feature and risks relating to these audits.

## Representative Experience

Represented hospice in appeal of a Medicare audit that resulted in an extrapolated overpayment of more than \$12 million. Advocated for the hospice through the appeal process including a hearing before an administrative law judge. The extrapolation was thrown out and the ALJ returned a fully favorable ruling, resulting in a final overpayment amount of \$0.00.

Through administrative appeal process, decreased alleged \$8.6 million hospice client's overpayment identified during Medicare audit to less than 1 percent: \$77,000.

Appealed alleged overpayment finding during Medicare audit that placed nonprofit hospice client on brink of ceasing or selling operations, reducing overpayment by approximately \$20 million.

Successfully argued for hospice client that Unified Program Integrity Contractor (UPIC)'s \$25 million extrapolated overpayment was invalid. At first level of appeal, hospice was vindicated leaving mere \$70,000 in dispute.

Negotiated a \$2 million settlement of a \$25 million UPIC

audit securing the hospice's future and its service to the community.

Secured elimination of \$4.4 million extrapolated overpayment demand by UPIC. At reconsideration level of appeal, successfully argued that statistical extrapolation was fundamentally flawed and Qualified Independent Contractor (QIC) agreed that methodology was invalid.

Secured withdrawal of \$15 million extrapolated overpayment demand by UPIC. Prior to filing first-level redetermination appeal, successfully argued that payment demand must be rescinded due to fundamental flaws in statistical extrapolation. Achieving withdrawal at this early stage allowed client to avoid years of costly litigation and, due to appeal backlog, the threat that multimillion recoupment would begin before case was heard by administrative law judge (ALJ).

Secured withdrawal of \$12 million extrapolated UPIC audit finding before demand letter was issued. Almost immediately persuaded Medicare Administrative Contractor (MAC) and UPIC that fundamental errors were made in audit documentation review, rendering overpayment determinations and statistical extrapolation inaccurate. The hospice was thus able to avoid costly and time-consuming appeal.

At first level of appeal, successfully overturned 84% of UPIC claim denials and secured removal of extrapolation, reducing \$7 million repayment to nearly \$96,000.

Successfully defended one of the first federal hospice

Medicaid Integrity Contractor (MIC) audits by obtaining withdrawal of nearly entire \$3 million overpayment.

Coordinated with local counsel to challenge state's ability to recoup Medicaid nursing home room and board dollars on basis that Medicare hospice services were alleged to have not been medically necessary.

Successfully defended state Medicaid audit seeking to recover \$6+ million in nursing home room and board pass-thru payments. After initial response, recoupment was reduced to ~\$82,000.