TITLE 1 ADMINISTRATION

PART 15 TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 353 MEDICAID MANAGED CARE

SUBCHAPTER Q PROCESS TO RECOUP CERTAIN OVERPAYMENTS

§353.1451. Purpose and Authority.

The purpose of this subchapter is to describe the notice a managed care organization (MCO) must give to recoup an overpayment related to an electronic visit verification transaction in accordance with Texas Government Code, §531.1135 and the due process an MCO must give to recoup an overpayment related to a determination of fraud or abuse in accordance with Texas Government Code, §531.1131.

§353.1452. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

 (1) Abuse--This term has the meaning set forth in §371.1 of this title (relating to Definitions).

 (2) EVV transaction--Electronic visit verification transaction. This term has the meaning set forth in §354.4003 of this title (relating to Definitions).

 (3) Fraud--This term has the meaning set forth in §371.1 of this title.

§353.1453. Notice to Recoup an Overpayment Related to an EVV Transaction that is not Fraud or Abuse.

(a) In an audit of a provider conducted by a managed care organization (MCO), the MCO must limit the review of EVV transactions to those that occurred during the 24 months prior to the audit.

(b) If, based on an audit or investigation of a provider, an MCO identifies a deficiency related to an EVV transaction that is not fraud or abuse and the MCO decides to recoup an overpayment because of the deficiency, the MCO must give the provider written notice of the MCO’s intent to recoup overpayments not later than the 30th day after the date the audit or investigation is completed.

(c) An MCO must include the following in the written notice required by subsection (b) of this section:

 (1) a description of the basis for the intended recoupment;

 (2) the specific EVV transactions and associated claims that are the basis of the intended recoupment;

 (3) that the MCO must receive a response to the notice from the provider no later than the 30th day after the date the provider receives the written notice, if the provider intends to respond;

 (4) the specific number of days allowed to correct and explain the deficiency before the MCO begins any efforts to collect overpayments, which must be no fewer than 60 days from the notice date;

 (5) the process by which the provider should communicate with and send information to the MCO about the EVV transactions that are the basis of the intended recoupment;

 (6) the provider’s option to seek an informal resolution with the MCO of the intended recoupment; and

 (7) the MCO’s process to appeal the intended recoupment.

(d) An MCO may recoup an overpayment only if a provider:

 (1) does not correct the deficiency and does not appeal the alleged overpayment; or

 (2) appeals the alleged overpayment and the final decision from the appeal is favorable to the MCO.

(e) If an MCO determines that a deficiency related to an EVV transaction is fraud or abuse, the MCO must comply with §353.1454 of this subchapter (relating to Due Process Procedures to Recoup an Overpayment Because of a Determination of Fraud or Abuse).

§353.1454. Due Process Procedures to Recoup an Overpayment Because of a Discovery of Fraud or Abuse.

(a) If a managed care organization (MCO) decides to recoup an overpayment from a provider because of a discovery of fraud or abuse as permitted by §353.505 of this chapter (relating to Recovery of Funds), the MCO must have due process procedures that include the following:

 (1) written notice to the provider of the MCO’s intent to recoup overpayments that includes the following:

 (A) a description of the basis for the intended recoupment;

 (B) the specific claims that are the basis of the intended recoupment;

 (C) the process by which the provider should send information to the MCO about claims that are the basis of the intended recoupment;

 (D) the provider’s option to seek an informal resolution with the MCO of the intended recoupment; and

 (E) the MCO’s process to appeal the intended recoupment;

 (2) a process for the provider to seek informal resolution; and

 (3) a process for the provider to appeal the intended recoupment.

(b) An MCO may recoup an overpayment only if a provider:

 (1) does not appeal the alleged overpayment; or

 (2) appeals the alleged overpayment and the final decision from the appeal is favorable to the MCO.