



# Health Provider Compliance Audits – Pharmaceutical Benefits Scheme

March 2023

## What is an audit?

The audit process aims to establish whether health benefits have been correctly claimed in accordance with relevant legislation. This includes assessing and verifying information obtained by the Department of Health and Aged Care, interaction with approved suppliers and decisions to initiate the recovery of incorrectly paid amounts.

*The National Health Act 1953* (the Act) sets out the legislative framework for the Pharmaceutical Benefits Scheme and contains provisions which regulate compliance.

## What does an audit involve?

Audits are conducted through a series of interactions between an audit officer and an approved supplier or a representative.

An audit usually begins with an approved supplier receiving a written request to provide information relevant to whether amounts paid in respect of the supply of pharmaceutical benefits should have been paid.

Any information from an approved supplier will be considered by the Secretary or delegate in deciding whether to seek the recovery of amounts paid.

## Notice to produce

A notice to produce may be issued if an approved supplier is paid an amount in respect of the supply of a pharmaceutical benefit and there are requirements to keep certain documents. For example, approved suppliers are required to keep documents including prescriptions and medication chart prescriptions for specified periods.

If a notice to produce is issued, the person must produce the document (or copy) to the Secretary or delegate within the period specified in the notice.

If a notice to produce has been issued, any applicable administrative penalties may be reduced if an approved supplier voluntarily indicates that an amount paid exceeds the amount that should have been paid before the end of the period specified in the notice.

## Recovery of amounts paid

The legislation enables the recovery of amounts paid in respect of the supply of pharmaceutical benefits in certain circumstances.

## False or misleading information

Recovery may be sought if an amount paid in respect of the supply of pharmaceutical benefits was a result of the giving of false or misleading information.

Generally, this results in an amount being recoverable from an approved supplier.

For example, if an approved supplier certifies a pharmaceutical benefit was supplied in accordance with the legislation (when the requirements may not have been met) such a certification may constitute false or misleading information.

## Failure to produce

If an approved supplier fails to comply with a notice to produce documents, the amounts paid in respect of the identified payments are recoverable as a debt due to the Commonwealth.

An amount will not be recoverable if the person satisfies the Secretary or delegate that the non-compliance is due to circumstances beyond the person's control.

## Opportunity to respond

If there is evidence to suggest an amount paid may have exceeded the amount that should have been paid, an approved supplier will be given an opportunity to make a submission before a recovery decision is considered. This ensures the approved supplier is aware of the matter and enables them to provide any additional information.

## Claiming an amount as a debt

Once the Secretary or delegate has assessed the available evidence in an audit, they may decide to claim an amount as a debt due to the Commonwealth. If an amount is claimed, the approved supplier will be advised in writing, given reasons for the decision, and information about how to apply for a review of the decision.

## Administrative penalties

The Act sets out circumstances in which administrative penalties apply in respect of amounts recoverable as debts due to the Commonwealth.

The provisions regulating compliance do not provide the Secretary or delegate with any discretion in respect of the application of administrative penalties.

## Review of decisions

An approved supplier may seek an internal review of a decision to claim an amount as a debt within 28 days of being notified of the decision. A request must be made on the form available at <https://www.health.gov.au/resources/publications/application-to-review-compliance-audit-decision>

# Conclusion of an audit

An approved provider is notified in writing when an audit is finalised.

This is general information in summary form. Consider the legislation and obtain legal advice.