



**HAWAII HEALTH SYSTEMS**  
C O R P O R A T I O N

*"Touching Lives Every Day"*

## ***COMPLIANCE ALERT 10-13***

### ***Repayment of Unclaimed Credit Balances***

This *Compliance Alert* provides guidance for HHSC facilities addressing credit balances.

Unclaimed Credit Balances from Government Sources: Unclaimed (where patient can not be contacted, found, etc.) credit balances remaining from a government program should be sent to the fiscal intermediary using their appropriate credit balance process. If the fiscal intermediary at the time of the claim is no longer available and can not be identified, credit balances should be sent to the current fiscal intermediary.

Unclaimed Credit Balances from non-Federal Sources: Unclaimed credit balances remaining from other non-government sources should be returned to the State of Hawaii's Unclaimed Property Fund based on the following law and processes.

**Hawaii State Law for Unclaimed Property:** Chapter 523A of the Hawaii Revised Statutes lays out the legal requirements and processes for dealing with unclaimed or abandoned property held by State agencies. Chapter 523A-2 defines "property" to include a credit balance.

#### Definitions:

- For purpose of this *Compliance Alert*, "holder" is a HHSC facility or facilities.
- For purpose of this *Compliance Alert*, "property" is a credit balance.
- For purpose of this *Compliance Alert*, "owner" is the guarantor of the patient account.

***Definition of "Abandoned or Unclaimed."*** A credit balance is presumed abandoned if it is unclaimed by the apparent guarantor five years after the credit balance accrued (HRS§523A-3). However, Chapter 523A-2.5 specifies that any credit balance held by any governmental subdivision, agency or entity where the guarantor has not claimed or corresponded in writing concerning the credit balance within three years shall be presumed abandoned and shall be subject to the custody of the State if the address of the owner is unknown.

**Mandatory Report to be Filed.** State law requires that the HHSC facility make a report to the State Director of Finance by November 1 of each year covering the previous fiscal year that includes:

- 1) Description of the property, i.e., amount of the credit balance.
- 2) Name and last known address, social security or tax identification number of the guarantor if the credit balance is more than \$50;
- 3) An aggregated amount of items valued under \$50 each;
- 4) Date that the credit balance became payable, demandable, or returnable, the date of the last transaction with the apparent guarantor with respect to the credit balance, and whether the credit balance is an interest bearing account;
- 5) Other information as required by Chapter 91 and the Director of Finance.
- 6) An affidavit stating that the Facility has complied with the six month notification requirement to the presumed guarantor (see next section).

**Final Written Notice to Guarantor of a Credit Balance.** Not more than six (6) months prior to the annual report to the Director of Finance, the Facility shall send a written notice to the apparent guarantor stating that the Facility is in possession of a credit balance. This notice is only required if the facility has an address of record that according to the facility's records is accurate and the credit balance is more than \$50.

Additional time to file the report may be requested prior to the November filing date. If granted, the additional time for the filing may be accompanied by an interim payment that terminates the accrual of additional interest on the amount paid (see penalty section below).

**Payment of the Credit Balance to the Director of Finance.** If the credit balance is presumed abandoned, the facility shall pay, deliver, or cause to be paid or delivered to the State Director of Finance the credit balance described in the report as unclaimed. Any amounts transmitted shall be deposited into the unclaimed property trust fund that is administered by the State Director of Finance.

All credit balances that are for guarantors with addresses in Hawaii are subject to custody of Hawaii. Credit balances for guarantors from other States may still be subject to Hawaii's custody (given that the services were performed here) as long as the guarantor's home state does not provide for custodial taking of the credit balance.

**Penalties.** HRS Chapter 5234A-24 states that a facility that fails to report, pay, or deliver the presumed abandoned credit balance within the time prescribed shall pay interest. The interest shall be at the annual rate of two percentage

points above the annual rate of discount in effect on the date the property should have been paid or delivered for the most recent issue of 52-week U.S. Treasury bills. Interest is calculated on the value of the credit balance from the date the credit balance should have been reported, paid, or delivered. Civil penalties of \$200 for each day the report, payment or delivery is withheld or the duty is not performed may be levied up to a maximum of \$5000.

Additional penalties are levied for willful neglect of the provisions of this law, fraudulent claims. These penalties and interest may be waived by the Director of Finance for good cause if the facility acted in good faith and without negligence.

Sources:           HRS §523A-2                   HRS §523A-8  
                  HRS §523A-2.5               HRS §523A-24  
                  HRS §523A-3  
                  HRS §523A-5