

What Does Unclaimed Property Mean for Urgent Care Providers?

Urgent Message: Undeliverable refunds of patient balances do not become property of the urgent care center, but rather, after reasonable effort to contact patients, must be turned over to the state.

Alan A. Ayers, MBA, MAcc

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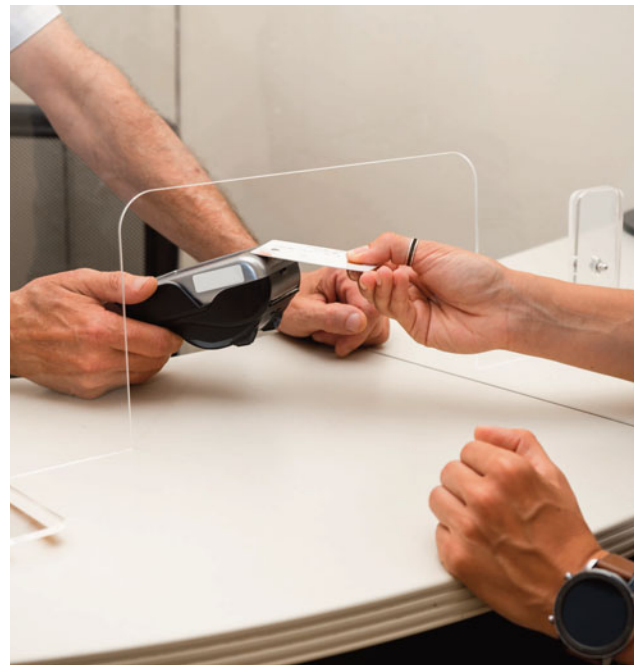
Urgent care centers frequently carry patient balances due to overpayment. This happens with co-pays, co-insurance, deductibles, or other out-of-pocket outlays when the insurance payment is more than was anticipated. While the urgent care should issue a refund in these situations, sometimes refund checks mailed to patients are returned or are never cashed. This article will examine the obligations of urgent care operators as to how to manage these funds.

What is Unclaimed Property?

Unclaimed property is generally defined as any financial asset left inactive by its owner for a period of time, typically three years in most states.¹ For example, the North Carolina Unclaimed Property Act defines “property” as:

*money or tangible personal property held by a holder that is physically located in a safe deposit box or other safekeeping depository held by a financial institution within this State or a fixed and certain interest in intangible property or money that is held, issued, or owed in the course of a holder’s business, or by a government, governmental subdivision, agency, or instrumentality, and all income or increments therefrom.*²

It is property the business has in its possession that hasn’t been claimed by the true owner. Under the Revised Uniform Unclaimed Property Act—the model law



upon which many states design their statutes—the term “owner” means “a person that has a legal, beneficial, or equitable interest in property or the person’s legal representative when acting on behalf of the owner, and includes (i) a depositor, for a deposit; (ii) a beneficiary, for a trust other than a deposit in trust; (iii) a creditor, claimant, or payee, for other property; and (iv) the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.”³ Examples of unclaimed property include patient credit balances, uncashed pay-

Author affiliations: Alan A. Ayers, MBA, MAcc, is President of Experity Consulting and Practice Management Editor of *The Journal of Urgent Care Medicine*. The author has no relevant financial relationships with any ineligible companies.

roll checks, uncashed vendor checks, unidentified remittances, self-insurance payments, and uncashed debt/interest checks.⁴

These unclaimed items can remain on an urgent care's books for a significant period of time as old credit balances or outstanding checks on bank reconciliations. In some instances, bookkeepers are inclined to "clean up" their financials and reverse these items as income. However, this practice is illegal.

In the healthcare industry, funds that are subject to the state's unclaimed property laws can emerge in a variety of ways.⁵ In addition to the standard accounts payable scenario, complicated reimbursements can give rise to unique and substantial liability for unclaimed property. This may be in the form of credit balances from insurance overpayments when an urgent care patient pays out of pocket for an amount also paid by the insurance company, or where more than one insurer pays the insured's claim.⁶ In these circumstances, it may be challenging to reconcile the company's accounts. As a result, it's not uncommon for urgent cares to rack up significant credit balances that will one day become unclaimed property.

What Should an Urgent Care Do with Unclaimed Property?

California defines a holder of unclaimed property as a person or trustee in possession of property subject to the Unclaimed Property Law "belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to the [Unclaimed Property Law]."⁷ The holder is required to report the unclaimed property in its possession by a deadline and to deliver it to the state.⁸ If the holder fails to deliver the property to the state as required, it is subject to a fine if the failure is willful⁹ or subject to interest at the rate of 12% a year if the failure is not.¹⁰ The state government acts as a custodian and holds the property until it is delivered to the rightful owner. The intent of unclaimed property laws is to make certain that the property is preserved for, and returned to, its rightful owner.¹¹

Thus, urgent cares have a legal obligation to properly hold and remit unclaimed property to the state after a certain period of time. They should understand that these laws govern the disposition of unclaimed property, which eventually can become property of the state—typically known as "escheatment."¹²

After the dormancy or waiting period has passed, the holder must conduct due diligence and try to locate the owner of the property prior to escheatment. The laws say the holder is generally required to:

- Confirm the owner's interest in property that sat-

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isfies state thresholds by sending the owner notice via a due diligence letter or email.¹²

- If the owner fails to respond to the notice, the holder must escheat the property to the state.^{12,13}

Unclaimed Property Audits

To ensure compliance with these laws, states conduct unclaimed property audits, which are usually handled by the secretary of state and/or the state attorney general. In most states, third-party auditors conduct these audits.

There are a number of situations that can cause an urgent care to be the target of an unclaimed property audit. A few of the most common include:

- A lack of reporting history;
- Inconsistent reporting history;
- Fluctuations in amounts or types of property being reported; or
- Not reporting property types common to an industry.¹²

These audits can impose a significant burden on an urgent care business because of the time and resources involved. If unclaimed property reports aren't filed, an urgent care may be penalized with interest. Note that there is no statute of limitations for delinquent filers, and some states are allowed to audit retrospectively going back to the day the business was formed.^{4,14}

If an urgent care business has never filed an unclaimed property report with the state but has held unclaimed property in the past, it is strongly recommended that it file a voluntary disclosure agreement (VDA). This provides an urgent care with several benefits, like a limited period of prior-year returns to file, the waiver of interest and/or penalties, and limitations on future audits.¹⁴

Incidentally, once the property has been delivered to the state, there is a process for an individual to make a claim. For example, Pennsylvania Statute § 1301.21 of the Unclaimed Property Law provides the procedure for aggrieved persons regarding abandoned or unclaimed property paid or delivered to the Commonwealth:

Any person aggrieved by a decision of the State Treasurer, or as to whose claim the State Treasurer has failed to act within ninety (90) days after the filing of the claim, may commence an action in the Commonwealth Court to establish his claim. The proceeding shall be brought within thirty (30) days after the decision of the State Treasurer or within one hundred twenty (120) days from the filing of the claim if the State Treasurer fails to act.¹⁵

Takeaway Points

- It is critical for urgent care owners and operators to understand their state’s unclaimed property laws, such as how the urgent care’s processes can be organized and structured to avoid accruing unclaimed property altogether.
- One way to do this is to create payer agreements and overpayment letters that state that unclaimed funds will revert back to the provider.
- For credit balances that are already due and outstanding, a careful read of the applicable law may show that an escheat exemption is available.
- Since each state has unique laws in this area, consult with legal counsel for further analysis.¹¹ ■

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