



## Medicare Overpayments



## What's Changed?

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Note: No substantive content updates.

An overpayment is a payment made by CMS to a provider that exceeds the amount due and payable according to existing laws and regulations. Identified overpayments are debts owed to the federal government. Laws and regulations require us to recover overpayments. This fact sheet describes the overpayment collection process.

**Note:** [Coordination of Benefits & Recovery Overview](#) webpage has more information about Medicare Secondary Payer (MSP) overpayments when we aren't the patient's primary health insurance.

Overpayments happen because of:

- Incorrect coding
- Insufficient documentation
- Medical necessity errors
- Processing and administrative errors

Overpayments are identified by CMS, 1 of its contractors, or self-reported by a provider.

## Self-Identified Overpayments

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Through reasonable diligence, a provider can identify **any** overpayment and calculate the amount. According to section 1128J(d) of the [Social Security Act](#), a provider must report and return a self-identified overpayment to its Medicare Administrative Contractor (MAC) within:

- 60 days of identifying the overpayment
- 6 years from getting an overpayment, generally known as the “lookback period”
- A corresponding cost report due date, if applicable

## Overpayment Collection

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### Demand Letter

When a provider receives an overpayment of \$25 or more, its MAC initiates the overpayment recovery process by sending a demand letter requiring repayment. [Find your MAC's website](#) for more information.

A MAC demand letter includes information relating to the following:

- That an overpayment was made
- How the overpayment was calculated
- Name and MBI of patient involved
- Dates and types of services overpaid
- How interest will accrue, and what rate (if the overpayment isn't repaid in full within 30 days)
- Extended repayment schedule (ERS)

- The recoupment process and options (for example, when recoupment will start, the ability to request immediate recoupment, the impact of filing an appeal on recoupment)
- Rebuttal rights (if applicable)
- Administrative appeal rights
- We may instruct the Medicaid State Agency to withhold the federal share of any Medicaid payments until the full amount owed to Medicare is recouped

A provider may choose from these options when responding to an initial demand letter:

- Make an immediate payment
- Request immediate recoupment
- Submit a rebuttal
- Appeal the overpayment by requesting a redetermination
- Request an ERS

If the provider's initial demand letter is returned to their respective MAC as undeliverable, the MAC will attempt to reach the provider by phone within 10 business days of receiving the initial demand letter.

## Payment Options

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For self-identified and reported overpayments, after a MAC processes a claim, it sends an Electronic Remittance Advice (ERA) or a Standard Paper Remit (SPR) with final claim adjudication and payment information. If the provider discovers an overpayment, they're responsible for returning it to the MAC. When returning the self-identified overpayment, the provider must include an explanation as to what caused the overpayment.

For overpayments identified by CMS or the MACs, after receiving a demand letter requiring repayment of an overpayment, a provider may request 1 of the following methods of repayment:

- **Immediate Recoupment:** A provider may request immediate recoupment for all future overpayments that may occur, or for 1 specific overpayment. Unless a provider specifies it as a one-time request, the immediate recoupment request applies to all current and future debts. Upon the provider's request, the MAC recovers an overpayment by offsetting future payments to satisfy the overpayment amount. Generally, written requests for an immediate recoupment are classified as voluntary repayments. Accordingly, immediate recoupment requested by the provider isn't subject to calculation of interest under section 935(f)(2)(B) of the [Medicare Modernization Act](#).
- **Standard Recoupment:** A MAC automatically begins standard recoupment according to the Overpayment Debt Collection Activities schedule below. If the debt becomes delinquent, interest may accrue.
- **ERS:** If a provider can't make the full overpayment in the required timeframe, ERS provides request instructions in the MAC's demand letter.



## Other Options

- **Rebuttal:** A provider may submit a rebuttal within 15 calendar days from the date of the MAC's demand letter. The rebuttal explains and provides evidence why the MAC shouldn't recoup the payment. The MAC will promptly evaluate your rebuttal statement.

**Note:** A rebuttal is different than an appeal and doesn't stop recoupment activities.

- **Appeal:** If a provider disagrees with an overpayment decision, they can request an appeal. Medicare Part A and Part B has 5 appeal levels:
  - 1) **Redetermination** occurs after the initial Part A and Part B claims determination. A MAC re-examines the claim and supporting documentation. A MAC employee **not** involved in the initial determination makes the redetermination.
  - 2) **Reconsideration** by a Qualified Independent Contractor (QIC).
  - 3) **Hearing** by an Administrative Law Judge (ALJ) or **review** by an Attorney Adjudicator at the Office of Medicare Hearings and Appeals (OMHA).
  - 4) **Review** by the Medicare Appeals Council.
  - 5) **Judicial Review** in U.S. District Court.

The CMS Medicare Learning Network® booklet [Medicare Parts A & B Appeals Process](#) has more information.



## Recoupment Limitation

Section 1893(f)(2)(A) of the [Social Security Act](#) outlines the government’s overpayment recoupment limitations. When a MAC gets a valid first- or second-level overpayment appeal, subject to certain limitations, it can’t recoup the overpayment until there’s an appeal decision. This affects recoupment timeframes. [42 CFR 405.379](#) has more information about overpayments that are subject to recoupment limitation.

## Interest

If a provider’s overpayment isn’t fully paid in 30 days from the date of the initial demand letter, interest is assessed beginning on day 31. Simple interest shall be charged on the outstanding principal balance of the debt starting with the date of the initial demand letter and for every 30-day period thereafter, until the debt is fully paid. [Medicare Financial Management Manual, Chapter 3](#) and [Chapter 4](#) has more information about how interest applies. Once interest begins to accrue and is assessed, funds received to satisfy the debt are first applied to interest, then to principal.



## Debt Collection Timeframes

The following table displays the overpayment debt collection activities timeframe. It describes how overpayments subject to Recoupment Limitation collections differ. It also notes when an action won’t apply if an overpayment is in an excluded status (for example, a requested or approved ERS, appeal, or bankruptcy).

## Overpayment Debt Collection Activities

Timeframe	Activity
Day 1	MAC sends an overpayment determination demand letter within 7 calendar days.
Days 1–16	<b>MAC begins immediate recoupment</b> by Day 16 if you request it.
Day 15	Last day to submit a rebuttal.
Day 16	<b>MAC begins standard Part A overpayment recoupment</b> not subject to Recoupment Limitations or in an excluded category.
Day 30	<p>Last day to pay in full to avoid interest accrual. Interest continues to accrue for each 30-day period until you pay the debt in full.</p> <p>If a provider requests a redetermination on an overpayment that's subject to the Recoupment Limitation provision, you must file the redetermination request by Day 30 from the date of the demand letter to prevent recoupment starting on Day 41.</p> <p>If a provider files an appeal after Day 30 then by Day 120, the law requires the MAC to stop recoupment subject to recoupment limitation when it gets and validates your appeal.</p> <p>In this case, the MAC <b>won't</b> refund money already recouped, until the redetermination process is adjudicated.</p>
Day 31	<b>Interest accrual begins</b> for unpaid overpayments by Day 30, regardless of whether an appeal or request for redetermination has been filed.
Day 40	Last day to pay overpayments in full before recoupment begins, subject to Recoupment Limitation.
Day 41	<b>MAC begins standard overpayment recoupment</b> unless overpayment is an excluded category (for example, overpayments subject to Recoupment Limitation in the redetermination appeal status).
Days 61–90	MAC sends Intent to Refer (ITR) letter for eligible delinquent debts.
Day 90	MAC attempts to contact you by phone if the debt is 60 days delinquent and not in a status excluded from referral to the U.S. Treasury Department (the Treasury).
Day 120	Last day to submit initial redetermination appeal request.
Days 126–150	MAC refers debt to the Treasury according to timelines specified in the <a href="#">Digital Accountability and Transparency Act (DATA)</a> .

## What Happens If Overpayment Isn't Returned?

If a provider fails to pay in full, it will receive an ITR letter 61–90 days after the initial demand letter. The ITR letter advises the provider to refund the overpayment or establish an ERS. If the provider doesn't comply, the MAC refers the debt for collection.

CMS refers the overpayment debt to the Treasury or to a Treasury-designated Debt Collection Center (DCC). Both work through the [Treasury Offset Program](#) (TOP) to collect the overpayment.

The Treasury may collect the debt using:

- Demand letters
- Phone follow-up
- Skip tracing
- Administrative offset referrals
- Private collection agency referrals, which may collect the debt with skip tracing, credit report search, demand letters, and phone calls
- Federal salary offset
- Administrative wage garnishment
- Referral to the U.S. Department of Justice for litigation

## Resources

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- [Medicare Claims Processing Manual, Chapter 34](#)
- [Provider Compliance](#)

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