DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

MLN Matters® Number: MM9815 **Related Change Request (CR) #: CR 9815**

Related CR Release Date: September 14, 2017 **Effective Date: April 2, 2018**

Related CR Transmittal #: R293FM **Implementation Date: April 2, 2018**

Revision to Publication 100.06, Chapter 3, Medicare Overpayment Manual, Section 200, Limitation on Recoupment

Revised: This article was revised on September 15, 2017, to reflect an updated Change Request that corrected format errors in the manual instructions. In the article, the CR release date, transmittal number, and link to the transmittal changed. All other information remains the same.

Provider Types Affected

This MLN Matters Article is intended for physicians, providers, and suppliers submitting claims to Medicare Administrative Contractors (MACs) for services provided to Medicare beneficiaries.

Provider Action Needed

Change Request (CR) 9815 updates the Centers for Medicare & Medicaid Services (CMS) "Medicare Financial Management Manual," Chapter 3, Sections 200-200.2.1, Limitation on Recoupment Overpayments. CR9815 is the first of four CRs that are forthcoming and incorporated into this manual. Make sure your billing staffs are aware of these updates that relate to the limitation on recovery of certain overpayments.

Background

Section 1893(f)(2)(a) of the Social Security Act and the provision in the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) prohibits recouping Medicare overpayments from a provider or supplier that seeks a reconsideration from a Qualified Independent Contractor (QIC). This provision changed how interest is to be paid to a provider or supplier whose overpayment is reversed at subsequent

administrative or judicial levels of appeal. The final rule defines the overpayments to which the limitation applies, how the limitation works in concert with the appeals process, and the change in our obligation to pay interest to a provider or supplier whose appeal is successful at levels above the QIC. This section also limits recoupment of Medicare overpayments when a provider or supplier seeks a redetermination until a redetermination decision is rendered.

The MAC will cease recoupment or not begin recoupment when the MAC receives a valid redetermination or reconsideration request timely on an overpayment subject to these limitations The provider has until the appeal deadline to file an appeal (refer to the "Medicare Claims Processing Manual," Chapter 29 at **https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c29.pdf**). If a provider wants to delay recoupment, it must submit the redetermination appeal request within 30 days of the demand letter date. To continue the delayed recoupment, the provider will have 60 days from the redetermination decision to submit a reconsideration request. If the request is received before the appeal deadline but after recoupment has started, the MAC will stop the recoupment. The MAC shall not refund any monies collected back to the provider, unless otherwise directed by the Centers for Medicare & Medicaid Services (CMS). The MAC will be accountable to ensure the debts continue to age and accrue interest until the debt is paid in full.

After the first two levels of appeal are completed, the MAC shall resume recoupment and normal debt collection processes. Whether or not the provider subsequently appeals the overpayment to the Administrative Law Judge (ALJ), or subsequent levels (Department Appeals Board (DAB), or Federal court), the MAC shall initiate recoupment at 100% until the debt is satisfied in full, unless an Extended Repayment Schedule (ERS) is established. If the debt was referred to Treasury and the provider files for an appeal, the MAC shall recall the debt from Treasury while in an appeal status. If the appeal decision is unfavorable to the provider, any outstanding debt will be referred back to Treasury, unless an approved Extended Repayment Schedule (ERS) is established or the provider pays the debt in full.

Additional Information

The official instruction, CR9815, issued to your MAC regarding this change is available at **https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/2017Downloads/R293FM.pdf**.

Chapter 29 of the "Medicare Claims Processing Manual" is available at **https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c29.pdf**.

If you have any questions, please contact your MAC at their toll-free number. That number is available at **https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Review-Contractor-Directory-Interactive-Map/**.

Document History

Date of Change	Description
September 15, 2017	The article was revised to reflect an updated CR that corrected format errors in the manual instructions. In the article, the CR release date, transmittal number, and link to the transmittal changed. .
September 1, 2017	Initial article issued