

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-06 Medicare Financial Management	Centers for Medicare & Medicaid Services (CMS)
Transmittal 293	Date: September 14, 2017
	Change Request 9815

Transmittal 292, dated September 1, 2017, is being rescinded and replaced by Transmittal 293, dated, September 14, 2017 to correct formatting errors in the manual instructions. All other information remains the same.

SUBJECT: Revision to Publication 100-06, Chapter 3, Medicare Overpayment Manual, Section 200, Limitation on Recoupment

I. SUMMARY OF CHANGES: This Change Request (CR) will update the Medicare Overpayment Manual, section 200-200.2.1, Limitation on Recoupment.

EFFECTIVE DATE: April 2, 2018

**Unless otherwise specified, the effective date is the date of service.*

IMPLEMENTATION DATE: April 2, 2018

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-*Only One Per Row.*

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
R	3/Table of Contents
R	3/200/Section 935 of the Medicare Modernization Act (MMA) - Limitation on Recoupment Overpayments
R	3/200.1/Limitation on Recoupment Section 935(f)(2) Eligibility
R	3/200.1.1/Overpayments Subject to Limitation on Recoupment
R	3/200.1.2/Overpayments Not Subject to Limitation on Recoupment
R	3/200.1.3/Adjustment of the Fee-For-Service Claims
R	3/200.1.4/The Rebuttal Process and the Limitation on Recoupment
R	3/200.1.5/Extrapolated 935 Overpayments
N	3/200.1.6/Medicare Secondary Payer (MSP) Provider Duplicate Primary Payment (DPP)
N	3/200.1.7/Immediate Recoupment Requirements for 935 Overpayments
R	3/200.2/Requirements for All Initial Demand Letters (Manual or Electronic)
R	3/200.2.1/935 Initial Demand Letter

III. FUNDING:

For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

**Business Requirements
Manual Instruction**

Attachment - Business Requirements

Pub. 100-06	Transmittal: 293	Date: September 14, 2017	Change Request: 9815
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SUBJECT: Revision to Publication 100-06, Chapter 3, Medicare Overpayment Manual, Section 200, Limitation on Recoupment

EFFECTIVE DATE: April 2, 2018

**Unless otherwise specified, the effective date is the date of service.*

IMPLEMENTATION DATE: April 2, 2018

I. GENERAL INFORMATION

A. Background: The statute required us to change the way we recoup certain overpayments. This provision changed how interest is to be paid to a provider or supplier, whose overpayment is reversed at subsequent administrative law judge (ALJ) or judicial levels of appeal. The final rule defined 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 qualified independent contractor (QIC). Before the MMA was enacted, if a provider or supplier elected to appeal an overpayment determination, there was no effect on Medicare’s ability to recover the debt. The changes to recoupment and interest are tied to the Medicare fee-for-service claims appeal process and structure.

B. Policy: 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.

This CR is the first of four CRs that are forthcoming and will be incorporated into CMS Publication 100.06, Medicare Overpayment Manual, Chapter 3, Section 200, Limitation on Recoupment.

II. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.

Number	Requirement	Responsibility									
		A/B MAC			D M E	Shared- System Maintainers				Other	
		A	B	H H H		F M V C W	M C S S	V M S S	C W F		
9815.1	Contractors shall review the Manual changes and the crosswalk for sections 200-200.2.1 in Chapter 3. The	X	X	X	X						

Number	Requirement	Responsibility									
		A/B MAC			D M E M A C	Shared- System Maintainers				Other	
		A	B	H H H		F I S S	M C S	V M S	C W F		
	changes consist of replacing FI and Carrier to Contractor, grammatical clarifications, additional regulation references.										
9815.2	The contractor shall create one Account Receivable (AR) for the total amount of the extrapolated overpayment, which also includes the statistical sampling. Refer to Publication 100-08, Medicare Program Integrity Manual (PIM) for instructions on extrapolations.	X	X	X	X						
9815.3	Contractor shall not process new Medicare Secondary Payer, Duplicate Primary Payment (MSP DPP) debts where the debtor is an individual or entity other than the provider; however, contractors shall continue to process provider MSP DPP Debts.	X	X	X	X						
9815.3.1	Contractors shall separately identify MSP DPP (including provider initiated) debt from all Non-MSP Debts for budget purposes only .	X	X	X	X						
9815.3.2	Contractors shall process MSP DPP debt as a 935 debt with the exception when the provider requests or initiates the adjustment, it will not be subject to the limitation on recoupment.	X	X	X	X						
9815.3.2.1	HIGLAS shall bypass the 935 Indicator validation when the provider requests or does the adjustment to the claims (Part A - ADJUSTMENT DISCOVERY CODE = 'H', Part B Discovery Code – 'P') and establish a Non-935 Overpayment.	X	X	X							HIGLAS
9815.3.3	Contractors shall ensure the MSP DPP debt workload and cost associated be accounted for under the MIP funding.	X	X	X	X						
9815.3.4	Contractors shall adjust claims to reprocess as secondary when the Explanation of Benefits (EOB) primary payment sheet is included with claims.	X	X	X	X						
9815.3.5	Contractors shall adjust claims to a full claims denial when the EOB/primary payment sheet is not included with the submitted claim(s).	X	X	X	X						
9815.3.5.1	Contractors shall process these overpayments as any other 935 overpayment in accordance to the procedures outlined in publication 100-06, Chapters 3,	X	X	X	X						

Number	Requirement	Responsibility									
		A/B MAC			D M E M A C	Shared- System Maintainers				Other	
		A	B	H H H		F I S S	M C S	V M S	C W F		
	4 & 5.										
9815.3.6	Contractors on HIGLAS shall use the existing PART A and PART B MSP Transaction Type Codes for the MSP DPP work. They are as follows: MAGHP-PROV935 MANONGHP-PROV935 MBGHP-PROV935 MBNONGHP-PROV935	X	X	X							
9815.3.6.1	Contractors on HIGLAS shall use the transaction types for “Provider Initiated Adjustments” Not Subject to the Limitation on Recoupment. These transaction types will be mapped to APROV1 and BPROV1 letters. MAGHP-PROV: (Part A (APROV1)) MANONGHP-PROV: (Part A (APROV1)) MBGHP-PROV: (Part B (BPROV1)) MBNONGHP-PROV: (Part B (BPROV1))	X	X	X							HIGLAS
9815.4	Contractors not on HIGLAS shall refer to CR 10023, Publication 100-06, Chapter 4, §20.1 for Non-MSP / Non-935 demand letter language (Not Subject to Limitation on Recoupment) for the provider initiated overpayments.	X	X	X	X						
9815.4.1	HIGLAS maintainer shall be mapping the transaction types to APROV1 and BPROV1 for the NON 935 Provider Initiated MSP DPP overpayments.										HIGLAS
9815.4.1.1	Contractors on HIGLAS shall use the language from APROV1 and/or BPROV1 when a manual letter is being created.	X	X	X							
9815.4.2	Contractors not on HIGLAS shall use the NON-MSP/NON-935 overpayment demand letter language for manual letters.	X	X	X	X						

Number	Requirement	Responsibility									
		A/B MAC			D M E M A C	Shared- System Maintainers				Other	
		A	B	H H H		F I S S	M C S	V M S	C W F		
9815.5	Contractors on HIGLAS shall use the HIGLAS-CMS Receivable Balance Detail Report (Extract) or CMS Receivable Activity Report to account for these debts under MIP.	X	X	X							
9815.6	Contractors shall offer two immediate recoupment options. 1. A one-time request on the total overpayment amount (all accounts receivables) in a single demand letter and any future demanded overpayments, or 2. A request on the demanded overpayment (All accounts receivables) addressed in a single demand letter only.	X	X	X	X						
9815.6.1	Contractors shall incorporate the minimum information related to “immediate recoupment” on its website: This option is ONLY for overpayments that receive a demand letter. This can be found section 200.1.7 in the new manual instructions.	X	X	X	X						
9815.6.1.1	Contractors shall use this option ONLY for overpayments that receive a demand letter. The request must be in writing, and may be submitted using regular mail, facsimile, or email with an encrypted file. <ul style="list-style-type: none"> The request must include the following: <ol style="list-style-type: none"> Provider Name and contact phone number Provider’s Medicare Number and/or the National Provider Identification (NPI) <ol style="list-style-type: none"> Provider, Administrator or CFO’s signature (someone with authority is <u>required to sign</u>) Letter number or a copy of demand letters first page Which option the provider is requesting 	X	X	X	X						
9815.6.1.1.1	Contractors shall scan, copy or keep the original request for proof of receipt.	X	X	X	X						
9815.6.1.1.2	Contractors shall use their discretion when a provider does not submit all 5 requirements to either reach out to provider for the missing information or not accept the request based on missing information.	X	X	X	X						

Number	Requirement	Responsibility									
		A/B MAC			D M E M A C	Shared- System Maintainers				Other	
		A	B	H H H		F I S S	M C S	V M S	C W F		
9815.7	Contractors shall continue to maintain or update the website on the immediate recoupment process as needed.	X	X	X	X						
9815.7.1	Contractors shall ensure the demand letter and website explain that, when there is a remaining principal balance after the initial immediate recoupment, they shall continue recoupment and other collection activities.	X	X	X	X						
9815.8	Contractors shall update all ARs associated to the request within <i>14 calendar</i> days from the Mailroom-stamped receipt date.	X	X	X	X						
9815.9	As applicable, contractors on HIGLAS shall use the functionality in HIGLAS, which allows user to set the flag to immediate recoupment for multiple ARs instead of only one AR.	X	X	X							
9815.10	Contractors shall update <u>ALL</u> AR's within the demand letter(s) in the shared systems when a provider requests the immediate recoupment option.	X	X	X	X						
9815.11	Contractor's shall stop the immediate offset process as soon as possible from the mailroom receipt date, but no later than 14 calendar days from mailroom receipt date.	X	X	X	X						
9815.12	Contractors shall issue demand letters for all overpayments subject to the limitation on recoupment protections. Refer to CR 10023 for Publication 100.6, Chapter 4, § 20 and §20.1 for the 935 demand letter template.	X	X	X	X						
9815.13	Contractors shall use the language in the letter templates shown in CR 10023 for Publication 100-06, chapter 4, § 20.1 on Overpayments subject to the limitation on recoupment protections. <ul style="list-style-type: none"> HIGLAS users : shall select the appropriate system generated letters listed in Chapter 4, §20 and §20.1 Non-HIGLAS users: shall use the template for the 935 Initial Demand Letter 	X	X	X	X						

Number	Requirement	Responsibility								
		A/B MAC		H H H	D M E M A C	Shared- System Maintainers				Other
		A	B			F I S S	M C S	V M S	C W F	
	<ul style="list-style-type: none"> Use the 935 Initial Demand Letter Template for manual letters. Contractors shall use the paragraph under (RAC Demand Letter Language only) in the 935 Initial Demand letter for RAC overpayments subject to 935 in chapter 4, §20 and 20.1. 									
9815.14	Contractors shall scan or copy all letters in the internal system for non-HIGLAS users and HIGLAS users shall use the Tool (Paper Clip) to ensure the availability to obtain a copy of manual letters as needed.	X	X	X	X					
9815.15	Contractors shall refer to CR 10023 and Publication 100-06, Chapter 4, Debt Collections, 20.1 for the 935 demand letter.	X	X	X	X					

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility					
		A/B MAC			D M E M A C	C E D I	
		A	B	H H H			
9815.16	MLN Article: A provider education article related to this instruction will be available at http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/ shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web sites and include information about it in a listserv message within 5 business days after receipt of the notification from CMS announcing the availability of the article. In addition, the provider education article shall be included in the contractor's next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X	X	X	X		

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
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Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Karen Ochab, 410-786-6406 or Karen.Ochab@cms.hhs.gov (MSP-DPP) , Deb Miller, 410-786-0331 or deborah.miller3@cms.hhs.gov

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR).

VI. FUNDING

Section A: For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

ATTACHMENTS: 1

CROSSWALK FOR CHAPTER 3 Section 200-200.2.1

Previous Manual

Revision in this Transmittal

200- Limitation on Recoupment (935) for Providers, Physicians, and Suppliers Overpayments	200-Section 935 of the Medicare Modernization Act- Limitation on Recoupment Overpayments
200.1- Overpayments That are Subject to Limitation on Recoupment	200.1-Limitation on Recoupment Section 935(f)(2) Eligibility
200.1.1- Overpayments That are Not Subject to Limitation on Recoupment:	200.1.1-Overpayments Subject to Limitation on Recoupment
200.1.2 - How Does the Rebuttal Process Work with the Limitation on Recoupment?	200.1.2- Overpayments Not Subject to Limitation on Recoupment
200.1.3 - Adjustment of the Part A Claim (or All Claims Adjusted by the Fiscal Intermediary Standard System-This Includes Part B of A Claims)	200.1.3 - Adjustment of the Fee-For-Service Claims
200.1.4 - Adjustment of the Part B Claims (All Claims Adjusted by the Medicare Carrier System or	200.1.4 - The Rebuttal Process
200.1.5-Immediate Recoupment Requirements	200.1.5 Extrapolated 935 Overpayments
	200.1.6 Medicare Secondary Payer (MSP) Provider Duplicate Primary Payment (DPP)
	200.1.7-Immediate Recoupment Requirements For 935 Overpayments
200.2 - Additional Requirements for Demand Letters	200.2 Requirements for All Initial Demand Letters (Manual or Electronic)
200.2.1 - Example 1- Sample of the 935 First Demand Letter for Part A and B	200.2.1-935 Initial Demand Letter

Medicare Financial Management Manual

Chapter 3 - Overpayments

Table of Contents

(Rev.293, Issued: 09-14-17)

Transmittals for Chapter 3

200 – *Section 935 of the Medicare Modernization Act (MMA)* - Limitation on Recoupment Overpayments

200.1 - Limitation on Recoupment *Section 935(f)(2) Eligibility*

200.1.1 - Overpayments Subject to Limitation on Recoupment

200.1.2 - *Overpayments Not Subject to* Limitation on Recoupment

200.1.3 - Adjustment of the *Fee-For-Service* Claims

200.1.4 - *The Rebuttal Process and the Limitation on Recoupment*

200.1.5 - *Extrapolated 935 Overpayments*

200.1.6 - *Medicare Secondary Payer (MSP) Provider Duplicate Primary Payment (DPP)*

200.1.7 - *Immediate Recoupment Requirements for 935 Overpayments*

200.2 - Requirements for *All Initial* Demand Letters (*Manual or Electronic*)

200.2.1 - 935 *Initial* Demand Letter

200 – Section 935 of the Medicare Modernization Act (MMA) - Limitation on Recoupment Overpayments

(Rev.293, Issued: 09-14-17, Effective: 04-02-18, Implementation: 04-02-18)

For purposes of this instruction, the Provider, Physician and other Supplier will be referred to as “Provider”.

Section 1893 (f)(2)(a) of the Social Security Act provides limitations on the recoupment of Medicare overpayments and the limitations extend to the redetermination (first level) and the reconsideration (*second level*). This section provides protection to providers during the initial stages of the appeal process. *It also requires the payment of interest on monies recouped when the provider prevails at the Administration Law Judge (ALJ) or subsequent levels of appeal.* These limitations do not affect a provider’s right to appeal nor the requirements and timeframes associated with appealing; however, to stop recoupment, a provider must act decidedly to appeal. *If the contractor discovers a Bankruptcy or the provider is in bankruptcy and appeals an overpayment, the contractor shall refer to publication 100.06, Chapter 4, Bankruptcy, § 140.4.3*

The contractor shall cease recoupment or not begin recoupment when a valid redetermination or reconsideration request is received *timely* on an overpayment subject to these limitations (see § 200.1 below). *The provider has until the appeal deadline to file an appeal (refer to publication 100.04, Chapter 29). 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 contractor shall stop the recoupment. The contractor shall not refund any monies collected back to the provider, unless otherwise directed by the Centers for Medicare & Medicaid Services (CMS). The contractor shall 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 contractor shall resume recoupment and Normal debt collection processes. Whether or not the provider subsequently appeals the overpayment to the ALJ, or subsequent levels (Department Appeals Board (DAB), or Federal court), the contractor 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 contractor 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 ERS is established or the provider pays the debt in full.

The contractor shall take the necessary steps to adjust affected account receivables (AR) after each favorable appeal decision. The contractor shall apply the funds collected (ERS payments, voluntary payments or recoupments) to any outstanding eligible overpayments first (monies shall be applied to interest first and then to principal) and any funds in excess will then be refunded to the provider.

If the provider prevails at the third level of appeal or higher:

Payment of Section 935 (f)(2) interest is only applicable to overpayments recovered through involuntary recoupment under the limitation on recoupment provisions. Interest is not payable on the principal amount recouped on voluntary payments, (e.g., payments from existing ERS, immediate recoupment prior to the Qualified Independent Contractor (QIC) decision, payment suspensions and check payments, including checks paid to Treasury).

Requirements that remain in effect:

- 1. The appeal timeframes and filing requirements. (Refer to Publication 100.04, Chapter 29)*
- 2. Overpayment interest accrual and assessment requirements. (Refer to 42 CFR 405.378 and Publication 100.06, Chapter 4)*
- 3. Underpayment interest requirements. (Refer to 42 CFR 405.378 and Publication 100.06, Chapter 4)*
- 4. Rebuttal requirements. (Refer to 42 CFR 405.373-405.375)*

***Note:** Rebuttal statements are not appeal requests. Only valid appeal requests at the first and second level trigger Section 935(f)(2) Limitation on Recoupment rights in accordance with 42 CFR 405.379.*

- 5. Suspended payment requirements. (Refer Publication 100-08, Chapter 4)*

200.1- Limitation on Recoupment *Section 935 (f)(2) Eligibility* ***(Rev.293, Issued: 09-14-17, Effective: 04- 02-18, Implementation: 04-02-18)***

The contractor shall determine if the limitations apply once an overpayment is determined (refer to §200.1.1 and §200.1.2 for guidance). This will trigger the creation of the appropriate initial demand letter and recoupment timeframes.

200.1.1 - Overpayments Subject to Limitation on Recoupment ***(Rev.293, Issued: 09-14-17, Effective: 04- 02-18, Implementation: 04-02-18)***

*This applies to most **Fee-For-Service** claims for which a demand letter is issued (refer to 42 CFR, 405.379), such as:*

- A. Post-pay denial of claims (refer to 200.1.2 for exclusions).*
- B. Medicare Secondary Payer (MSP) Duplicate Primary Payment (DPP).
(That was referred to the MAC contractor by the BCRC, CRC, other MAC contractor, or due to Self-Reporting (42 CFR 411.25)).*
- C. MSP recovery due to provider's failure to file a proper claim with the third party payer plan,*

program, or insurer for payment.

D. Final Claims associated with a Home Health Agency (HHA) Request for Anticipated Payment (RAP) under Home Health Prospective Payment System (HH PPS), (refer to 200.1.2(D) for exclusions).

200.1.2- Overpayments Not Subject to Limitation on Recoupment
(Rev.293, Issued: 09-14-17, Effective: 04- 02-18, Implementation: 04-02-18)

A. All other MSP overpayments that aren't identified in § 200.1.1 above.

B. Beneficiary overpayments

C. Cost report overpayments

D. HHA Request for Anticipated Payment (RAP) (refer to 200.1.1 (D) for exceptions).

Note: *This* is not considered a claim for purposes of Medicare appeals regulations; however, it is submitted using the same format as Medicare claims. RAPs under the Home Health Prospective Payment System (HH PPS) **do not have appeal rights during (1) the 120 days from the start of the episode; or (2) 60 days from the payment date of the RAP to submit the final claim; rather, appeals rights are tied to the claims that represent all services delivered for the entire HH PPS episode** (refer to Publication 100-04 Medicare Claims Processing Manual, Chapter 10, §§10.1.10 through 10.1.12, 40.1 & 50).

E. Hospice Caps calculations

F. Provider initiated claim adjustments (including MSP DPP provider initiated adjustments)

G. Accelerated/Advanced Payments

H. Reopening of claims (Clerical errors and mass adjustments)

I. Periodic Interim Payment (PIP) rate adjustments (with the exception of a RAC claim review, which determines an overpayment)

J. Payment Suspensions

200.1.3 - Adjustment of the *Fee-For-Service* Claims
(Rev.293, Issued: 09-14-17, Effective: 04- 02-18, Implementation: 04-02-18)

The contractor shall *adjust* the claims *after the 935 overpayment is determined*. This will trigger the creation of the *initial* demand letter *to begin* recoupment on the 41st day after the date of the demand letter.

200.1.4 - The Rebuttal Process and the Limitation on Recoupment

(Rev.293, Issued: 09-14-17, Effective: 04- 02-18, Implementation: 04-02-18)

In 42 CFR 405.373 through 405.375, regulations require that providers be given an opportunity to rebut before recoupment takes effect. *The provider can submit a statement that includes any pertinent information as to why recoupment should not be put into effect on the date specified in the notice/demand letter within 15 days. The rebuttal process is not an appeal. A rebuttal permits the provider a vehicle to indicate why the proposed recoupment should not take place. The contractor may, based on the rebuttal statement, determine to stop recoupment or proceed with recoupment. In contrast, the limitation on recoupment provision mandates that no recoupment begins when a valid and timely request for a first level or second level appeal is received.*

Refer to Publication 100.08, Medicare Program Integrity Manual, Chapter 3, Verifying Potential Errors and Taking Corrective Actions, § 3.6.5 - Provider Financial Rebuttal of Findings

200.1.5 - Extrapolated 935 Overpayments

(Rev.293, Issued: 09-14-17, Effective: 04- 02-18, Implementation: 04-02-18)

The contractor shall create one account receivable (AR) for the total amount of the extrapolated overpayment, which includes the statistical sampling of claims. Refer to Publication 100-08, Medicare Program Integrity Manual (PIM) for instructions on extrapolations.

200.1.6 - Medicare Secondary Payer (MSP) Provider Duplicate Primary Payment (DPP)

(Rev.293, Issued: 09-14-17, Effective: 04- 02-18, Implementation: 04-02-18)

The contractor shall not process new MSP DPP debts where the debtor is an individual or entity other than the provider; however, contractors shall continue to process provider MSP DPP Debts. The contractors shall separately identify MSP DPP (including provider initiated) debts from all Non-MSP Debts for budget purposes only. Contractors shall process MSP DPP debt as a 935 debt with the exception when the provider requests or initiates the adjustment, it will not be subject to the limitation on recoupment.

Note: All MSP DPP debt workload and cost associated need to be accounted for under the MIP funding.

1. All Contractors shall :

- a) *Adjust claims to reprocess as secondary when the Explanation of Benefits (EOB)/primary payment sheet is included with claims.*
- b) *Adjust claims to a full claims denial when the EOB/primary payment sheet is not included with the submitted claim(s).*
 - i. *Contractors shall process these overpayments as any other 935 overpayment in accordance to the procedures outlined in Publication 100.06, Chapters 3, 4 & 5.*

A. Contractors on HIGLAS shall:

Use the existing PART A and PART B MSP Transaction Type Codes for the 935 MSP DPP that was referred to the MAC contractor by the BCRC, CRC, other MAC contractor, or due to Self-Reporting (42 CFR 411.25).

They are as follows:

1. MAGHP-PROV935
2. MANONGHP-PROV935
3. MBGHP-PROV935
4. MBNONGHP-PROV935

B. Contractors on HIGLAS shall:

Use the transaction types for “**Provider Initiated Adjustments**” Not Subject to the Limitation on Recoupment.

These transaction types will be mapped to APROV1 and BPROV1 letters.

1. (APROV1.pdf): Part A Non-935 Aggregate Demand Letter
(To be used for MSP DPP Part A Provider Initiated)

- MAGHP-PROV;
- MANONGHP-PROV

2. (BPROV1.pdf): Part B Non-935 Initial Letter
(To be used for MSP DPP Part B Provider Initiated)

- MBGHP-PROV
- MBNONGHP-PROV

C. Contractors not on HIGLAS shall:

1. Provider Initiated Overpayments:

Refer to Publication 100.6, Chapter 4, §20.1 for Non-MSP / Non-935 demand letter language (Not Subject to Limitation on Recoupment)

2. All other MSP DPP's :

Refer to Publication 100.6, Chapter 4, §20.1 for the Non-MSP 935 Demand Letter Language

Use the HIGLAS-CMS Receivable Balance Detail Report (Extract) or CMS Receivable Activity Report to account for all MSP DPP debts under MIP.

200.1.7 - Immediate Recoupment Requirements for 935 Overpayments
(Rev.293, Issued: 09-14-17, Effective: 04- 02-18, Implementation: 04-02-18)

*Contractors shall offer providers the opportunity to request immediate recoupment. Providers can elect this process to avoid making payment by check and/or avoid the assessment of interest if the immediate recoupment pays the debt in full before day 31. If providers request an immediate recoupment, they must understand that it is considered a voluntary repayment. The request for immediate recoupment should be received in writing at least 16 days from the date of initial demand letter to avoid the assessment of interest, **however when the request is received after 16 days from the date of the demand letter, the debt shall be placed in an immediate recoupment status and interest will continue to accrue if the debt is not fully collected by day 31.***

A. Contractors shall offer two immediate recoupment options.

- 1. A one-time request on the total overpayment amount (All accounts receivables) in a single demand letter and any future demanded overpayments; Or*
- 2. A request on the demanded overpayment (All accounts receivables) addressed in a single demand letter only.*

B. Contractors shall incorporate the following minimum information related to “immediate recoupment” on its website:

*1. This option is **ONLY** for overpayments that receive a demand letter.*

- The request must be in writing, and may be submitted using regular mail, Facsimile, or email with an encrypted file.*
- The request must include the following:*
 - 1. Provider Name and contact phone number*
 - 2. Provider’s Medicare Number and/or the National Provider Identification (NPI)*
 - 3. Provider, Administrator or CFO’s signature (someone with authority is required to sign)*
 - 4. Letter number or a copy of demand letters first page*
 - 5. Which option the provider is requesting*

- The contractor shall scan, copy or keep the original request for proof of receipt.*

2. Contractors shall use their discretion when a provider does not submit all 5 requirements to either:

- Reach out to provider for the missing information or*
- Not accept the request based on missing information*

3. Contractors shall continue to maintain or update the website on the immediate recoupment

process as needed.

- C. Contractors shall inform providers that going through the immediate recoupment process is considered voluntary payments and will not be subject to 935 (f)(2) interest pursuant to § 1893(f)(2).*
- D. Contractors shall consider all written requests for an immediate recoupment as a payment arrangement that constitutes a voluntary payment except for immediate recoupment 30 calendar days after reconsideration decision.*
 - When the provider appeals to the ALJ and prevails.*
 - 1. Any money recouped (applied to the principal balance) 30 days after the reconsideration decision will be subject to 935 Interest.*
 - 2. Contractors shall follow the 935 (f)(2) interest calculation rules when the provider prevails and recoupment continued after an unfavorable reconsideration decision.*
- E. Contractors shall ensure the demand letter and website explain that, when there is a remaining principal balance after the initial immediate recoupment, they shall continue recoupment and other collection activities.*
- F. Contractors shall update all ARs associated to the request within 14 calendar days from the Mailroom-stamped receipt date.*
- G. As applicable, contractors on HIGLAS shall use the functionality in HIGLAS, which allows user to set the flag to immediate recoupment for multiple ARs instead of only one AR.*
- H. Contractors shall update ALL AR's within the demand letter(s) in the shared systems when a provider requests the immediate recoupment option.*
- I. Contractors shall accept a written request to discontinue participation in the immediate recoupment process at any time. Once received, Contractor's shall stop the immediate offset process as soon as possible from the mailroom receipt date, but no later than 14 calendar days from mailroom receipt date.*
- J. Contractors shall consider all written requests for an immediate recoupment as a payment arrangement that constitutes a voluntary payment.*

200.2 - Requirements for *All Initial Demand Letters (Manual or Electronic)*
(Rev.293, Issued: 09-14-17, Effective: 04- 02-18, Implementation: 04-02-18)

Contractors *shall* issue demand letters for all overpayments subject to the limitation on recoupment protections. *Refer to Publication 100.6, Chapter 4, § 20 and §20.1 for the 935 demand letter template. In addition to the requirements listed in Chapter 3 & 4, on Initial Demand Letters (excluding Cost Report Demand Letters) the following are specific requirements for overpayments subject to the Limitation on recoupment protections:*

Contractors shall:

- 1. Include a claim level detail report of the claim adjustments (AR's) that comprise the overpayment along with each demand letter to each provider.*
- 2. Use the language in the letter templates in chapter 4, § 20.1 for Overpayments subject to the limitation on recoupment protections.*
 - HIGLAS users shall select the appropriate system generated letters listed in Chapter 4,*

§20 and §20.1

- Non-HIGLAS users shall use the template for the 935 Initial Demand Letter*
- Use the 935 Initial Demand Letter Template for manual letters.*
- Contractors shall use the paragraph under **(RAC Demand Letter Language only)** in the 935 Initial Demand letter for RAC overpayments subject to 935 in chapter 4, §20 and 20.1.*

3. Scan or copy all letters in the internal system for non-HIGLAS users and HIGLAS users shall use the Tool (Paper Clip) to ensure the availability to obtain a copy of manual letters as needed.

4. Send the demand letter by first-class mail.

200.2.1 – 935 Initial Demand Letter

(Rev.293, Issued: 09-14-17, Effective: 04- 02-18, Implementation: 04-02-18)

Refer to Publication 100.6, Chapter 4, Debt Collections, § 20.1