

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-06 Medicare Financial Management</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 312</b>	<b>Date: April 5, 2019</b>
	<b>Change Request 11128</b>

**SUBJECT: Updates to Medicare Financial Management Manual Chapter 4, Section 50-50.6 Extended Repayment Schedules**

**I. SUMMARY OF CHANGES:** This Change Request (CR) includes updates and clarification to the extended repayment schedule (ERS) process that enhances management and procedure efficiency. It also updates policy language and standard practice found in Pub. 100-06, Chapter 4, Sections 50 - 50.6.

**EFFECTIVE DATE: October 1, 2019**

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

**IMPLEMENTATION DATE: October 7, 2019**

*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.

<b>R/N/D</b>	<b>CHAPTER / SECTION / SUBSECTION / TITLE</b>
R	4/50/Establishing an Extended Repayment Schedule (ERS) - (formerly known as an Extended Repayment Plan (ERP))
R	4/50.1/ERS Required Documentation --Physician is a Sole Proprietor
R	4/50.2/ERS Required Documentation-- Provider is an Entity Other Than a Sole Proprietor
R	4/50.3/ERS Approval Process
R	4/50.4/Sending the ERS Request to the Regional Office (RO)
R	4/50.5/Monitoring an Approved Extended Repayment Schedule (ERS) and Reporting Requirements
R	4/50.6/Requests from Terminated Providers or Debts that are Pending Referral to Department of Treasury

**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: 312	Date: April 5, 2019	Change Request: 11128
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**SUBJECT: Updates to Medicare Financial Management Manual Chapter 4, Section 50-50.6  
Extended Repayment Schedules**

**EFFECTIVE DATE: October 1, 2019**

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## I. GENERAL INFORMATION

**A. Background:** Overpayments are Medicare payments to a provider that are in excess of amounts due and payable under the statute and regulations. When an overpayment is determined, a demand letter is sent requesting repayment. A provider is expected to repay any overpayment promptly. If repaying an overpayment within 30 days would constitute a "hardship" for the provider, the provider may request an extended repayment schedule (ERS) at any time the overpayment is outstanding. Contractors and/or Regional Office staff shall review the request to determine if an ERS is justified.

**B. Policy:** This CR clarifies, updates, and includes new instructions to chapter 4, sections 50 through 50.6.

## II. BUSINESS REQUIREMENTS TABLE

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

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	
11128.1	Contractors shall take any actions necessary to implement the attached instructions, primarily by ensuring that ERS requests are handled timely and all attached instructions are completed.	X	X	X	X					
11128.2	Contractors shall consider additional factors when reviewing a request to refund underpayments.	X	X	X	X					
11128.3	Contractors shall consider ERS requests for 6-11 months on a case-by-case basis.	X	X	X	X					
11128.3.1	Contractors shall allow for requests for 6-11 month ERSs and not require submitting financial documentation if the provider meets the hardship qualifications and does not fall within a scenario found in section 50.3(1).	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		
11128.4	Contractors shall include in the ERS instructions an option in which the provider can elect to have all of its underpayments or manual refunds automatically applied to its overpayment.	X		X	X						
11128.4.1	Contractors shall allow a provider to rescind its consent to automatic recoupment or offset of underpayments and manual refunds, with further written notice to the contractor.	X		X	X						
11128.4.2	Contractors shall reduce the term of the ERS and shall not affect the installment amounts due under any amortization schedule for any underpayments or manual refunds applied to an overpayment.	X	X	X	X						
11128.4.3	Contractors shall not automatically apply an underpayment due to a cost report or a manual refund due to over collection to the ERS overpayment unless the provider has submitted a request asking the MAC to automatically apply underpayments and manual payments to the ERS payments.	X		X							
11128.4.4	The contractor shall notify the provider in writing of the underpayment or manual refund if they determine a Medicare underpayment or manual refund after establishing an ERS.	X	X	X	X						
11128.4.5	The contractor shall permit the provider 15 calendar days following the date of notification to submit a request (with justification) to refund the underpayment.	X	X	X	X						
11128.4.6	The contractor shall immediately apply this amount to the ERS payments if the provider does not respond in the required timeframe or has not submitted a form asking the contractor to automatically apply the underpayment or manual refund to the ERS payments.	X	X	X	X						
11128.4.7	The contractor should either apply the underpayment or refund the amount to the provider if the provider responds timely; the contractor has 15 calendar days from the receipt date to determine if the provider's justification is in the best interest of the Medicare program.	X	X	X	X						
11128.4.8	The contractor shall deny the request and shall immediately apply this amount to the ERS payments if	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		
	a provider does not submit such a justification.										
11128.4.9	The contractor shall apply the underpayment or manual refund to the ERS if the provider fails to provide accurate current financial information, including certifying that no material change has occurred.	X	X	X	X						
11128.4.10	The contractor shall send written notice of the determination to the provider, explaining the rationale for the determination if a refund request is denied. The determination is not an initial determination and is not appealable.	X	X	X	X						
11128.5	The contractor shall consider a terminated provider's ability to repay the debt over time if they submit an ERS request.	X	X	X	X						
11128.6	The contractor shall refer requests to the Regional Office (RO) if it determines that an ERS is in the best interest of the Medicare program, prior to denying the request based on the requirements in section 50.3.	X	X	X	X						
11128.6.1	The contractor should research and refer the request to the RO for a decision if the contractor has a reason to believe that the provider will terminate the program.	X	X	X	X						
11128.7	The contractor shall not refer a debt to Treasury if they have sent an Intent to Refer (ITR) letter and the contractor has approved an ERS prior to referral.	X	X	X	X						
11128.7.1	The contractor shall continue with normal debt collection (including discontinuing the ERS, pursuing the full balance owed, and/or referral to Treasury), if the provider misses one payment (31 days past due).	X	X	X	X						

### III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			D M E	C E D I
		A	B	H H H	M A C	
	None					

#### 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:
	N/A

**Section B: All other recommendations and supporting information: N/A**

#### V. CONTACTS

**Pre-Implementation Contact(s):** Theresa Carter, [theresa.carter@cms.hhs.gov](mailto:theresa.carter@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: 0**

# Medicare Financial Management

## Chapter 4 - Debt Collection

### Table of Contents (Rev.312, Issued: 04-05-19)

#### **50 - Establishing an Extended Repayment Schedule (ERS)**

*(Rev.312, Issued: 04-05-19, Effective: 10-01-19, Implementation 10-07-19)*

**For purposes of these instructions, the term Provider, Physician and other Supplier will be referred to as “Provider.”**

**For purposes of these instructions, the term Medicare Contractor will be referred to as “Contractor.”**

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**For the purposes of these instructions, the following definitions apply; See 42 C.F.R. §401.607(c)(2) and (3):**

**Hardship** exists when the total amount of all outstanding overpayments (principal and interest) not included in an approved, existing repayment schedule is 10 percent or greater than the total Medicare payments made for: (1) the cost reporting period covered by the most recently submitted cost report; or (2) the previous calendar year for a non-cost report provider (see below ‘additional factors to consider’ when determining eligibility).

**Extreme hardship** exists when a provider qualifies as being in “hardship” as defined in the previous paragraph and a 36 month to 60 month extended repayment schedule (ERS) is deemed eligible for approval consideration by Medicare.

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#### **Additional Factors to Consider:**

The contractor shall evaluate the request, based on the definitions written above, in conjunction with the requirements found in sections 50-50.3 of this chapter. For a provider whose situation does not meet the definitions written above, the contractor shall evaluate the ERS request based on the requirements found in sections 50-50.3 of this chapter and consider the information in (i) – (iii) below, when deciding whether to grant an ERS.

The contractor shall determine the number, amount, and frequency of installment payments based on the information submitted by the debtor and on other factors such as:

- (i) Total amount of the claim (overpayment);
- (ii) Provider's ability to pay; and
- (iii) Cost to CMS of administering an installment agreement.

The contractor shall document evaluation factors, including communication with CMS, used during the decision making process.

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A provider is expected to repay any overpayment promptly. If repaying an overpayment within 30 days would constitute a “hardship” on the provider, a request for an ERS should be submitted immediately. However, if the overpayment is outstanding and not referred to Treasury, the provider *shall* request an ERS

beyond 30 days, and the contractor shall review that request. Instructions on how to apply for an ERS shall be available on the contractors' website for provider reference. Medicare demand letters shall refer providers to the contractors' website for detailed ERS instructions. Contractors shall include in the ERS instructions a form in which the provider can elect to have their underpayments or manual refunds automatically applied to their overpayment (see section B below). Providers shall be given the option to request a paper copy.

A. The following steps shall be implemented upon receipt of an ERS:

1. A provider shall submit a signed ERS request which includes:
  - i. the specific overpayment for which an ERS is being requested;
  - ii. the number of months requested;
  - iii. CMS required documents (see sections 50.1-50.2) and a good faith payment equaling one month's payment of the providers requested terms with its request (ex. 36 month request = 1/36th minimum).

This is what constitutes a complete ERS.

2. Contractors shall evaluate all providers' requests for an extended repayment schedule up to 60 months, but shall only approve/disapprove ERS requests of at least 12 months up to 36 months.
3. *Contractors should consider ERS requests for 6-11 months on a case-by-case basis. Approval should only be for cases where it is clear that the debt can be repaid in this short period. Requests for 6 -11 month ERSs do not require submitting financial documentation if the provider meets the hardship qualifications and does not fall within a scenario found in section 50.3(1).*
4. Contractors shall refer ERS requests over 36 months (or an ERS that need RO guidance) that are determined as eligible to their CMS Regional Office (RO), along with a recommendation. Contractors *should* not send requests to the RO if they determine:
  - i. that a provider's request over 36 months is ineligible for approval due to not meeting the hardship criteria; or
  - ii. that the terms should be reduced less than 36 months, due to not meeting the extreme hardship criteria.
5. The RO shall evaluate and approve/disapprove ERS requests up to 60 months (see 42 CFR 401-607(c)(2)(vi)).
6. CMS Central Office (CO) *will* evaluate ERS requests as needed or requested by the RO.
7. All ERS requests shall be reviewed and evaluated for approval, disapproval, or referral to RO/CO within 30 days of receipt of the complete request.
8. Providers *shall request for a 6-11 month ERS* without submitting financial documentation if they meet the hardship qualifications and do not fall within a scenario found in section 50.3(1).
9. The Provider shall submit financial documentation for ERS request 12 months *or longer*.
10. The contractor or RO shall determine eligibility qualifications and the duration of the ERS based on its review of the provider's documentation and any other information acquired (such as fraud information, claims data, overpayment history, etc.).
11. If an ERS is approved and a provider misses one installment payment, the provider is in default



(refer to 42 CFR §401.613(2)(v)). The payment is considered missed if not received within 30 days after the payment due date. The contractor shall send a notice of default to the provider within 5 business days, suspend the ERS agreement, and immediately resume normal debt collection procedures.

12. The contractor shall consider a providers' request to reinstate the ERS, even after default. If reinstated, the provider *shall* be required to submit new documentation to determine eligibility. The contractor shall determine to reinstate the original ERS agreement or revise the schedule, if approved. If revised, the contractor shall ensure that the revised terms do not extend the original and revised schedule beyond 60 months. The ERS will be closed with no reopening, if the provider were to default again on the reinstated request.
13. *The contractor should not grant an ERS to a provider where there is a previously defaulted ERS that was not resolved (reinstated, paid up to date, or paid in full).*

B. The following steps shall be implemented when reviewing and establishing an ERS:

1. If a complete ERS request and a good faith check payment (see note a. below) are received, the contractor shall start reviewing the request immediately. The contractor shall accept the good faith payment(s) and suspend any recoupment during the review of the ERS.
2. Contractors shall review the complete ERS package to make a final decision within 30 business days of receipt. If the contractor needs additional time to review an ERS request, it shall work with their RO to determine a reasonable timeframe to complete.
3. If an ERS request is received with all documentation but no good faith payment, (see note a. below) the contractor shall immediately place the provider on 30% recoupment during the review of the ERS.
4. If an incomplete ERS request is received, the contractor shall review the submitted documentation, determine and request all missing documents, and immediately place the provider on no less than 30% recoupment. If the contractor requests additional documentation and the information is not received by the 16th day after the letter date, the contractor should close the request and resume collect activities.
5. Contractors shall review the ERS documents in detail to determine if there are any other documents needed. If additional documents are needed the contractors shall request additional documentation.
6. Contractors should extend an additional 15 calendar days to receive the documentation from the provider before closing the request. Upon receipt, the contractor shall complete its review of the additional documentation within 5 business days.
7. Contractors shall ensure that requesting additional documentation will not unnecessarily extend the decision-making period.
8. If the contractor needs additional time to conduct the review, they shall work with their RO to determine a reasonable timeframe to complete.
9. Contractors shall review and forward all ERS requests that they recommend to the RO for approval within 30 days of receiving a complete ERS request.
10. Contractors shall **NOT** refund any payments received or recouped that occurred while processing an ERS, but shall apply such amount(s) to the outstanding overpayment(s) (apply to interest first then principal), unless CMS directs otherwise.

11. If the ERS request is approved, the contractor shall establish an ERS to recover the remaining balance of an overpayment.
12. Pre-accrued interest shall be recovered first before applying any payments to principal. Pre-accrued interest can either be recovered in one lump sum or over multiple months (not to exceed 3 months, unless directed by CMS), depending on a provider's ability to pay in full or over time.
13. Contractors shall ensure that interest continues to accrue on the overpayment until it is paid in full. While recovering the pre-accrued interest amounts, the contractor shall also recover the interest that continues to accrue on the outstanding principal balance.
14. Once the pre-accrued interest is paid in full, the ERS (recovering principal and accruing interest) shall begin.
15. Approved ERS requests will run from the ERS approval date.
16. If the ERS request is denied, the contractor shall continue with normal debt collection activities. Providers shall be permitted one additional ERS request for an overpayment, where a previous ERS was denied.
17. If both ERS requests are denied, any additional ERS requests for that overpayment (that a contractor deems should be considered) shall be forwarded to the RO for review.
18. *Contractors shall include in the ERS instructions an option in which the provider can elect to have all of its underpayments or manual refunds automatically applied to its overpayment. Subject to section B below, a provider can rescind its consent to automatic recoupment or offset of underpayments and manual refunds, with further written notice to the contractor.*
19. *Any underpayments or manual refunds applied to an overpayment shall reduce the term of the ERS and shall not affect the installment amounts due under any amortization schedule.*
20. *Unless the provider has submitted a request asking the MAC to automatically apply underpayments and manual payments to the ERS payments, contractors shall not automatically apply an underpayment due to a cost report or a manual refund due to over collection to the ERS overpayment.*
21. *If the contractor determines a Medicare underpayment or manual refund after establishing an ERS, the contractor shall notify the provider in writing of the underpayment or manual refund.*
22. *The contractor shall permit the provider 15 calendar days following the date of notification to submit a request (with justification) to refund the underpayment.*
23. *If the provider does not respond in the required timeframe or has not submitted a form asking the contractor to automatically apply the underpayment or manual refund to the ERS payments, the contractor shall immediately apply this amount to the ERS payments (with the exception of #20 above).*
24. *If the provider responds timely, the contractor has 15 calendar days from the receipt date to determine if the provider's justification is in the best interest of the Medicare program. The contractor should either apply the underpayment or refund the amount to the provider.*
25. *If a provider does not submit such a justification, the contractor shall deny the request and shall*

*immediately apply this amount to the ERS payments.*

26. *If the provider fails to provide accurate current financial information, including certifying that no material change has occurred, the contractor shall apply the underpayment or manual refund to the ERS.*

27. *If a refund request is denied, the contractor shall send written notice of the determination to the provider, explaining the rationale for the determination. The determination is not an initial determination and is not appealable.*

NOTE(S):

- a. Good faith payments are monthly payments submitted by the provider while an ERS is in review. They should equal one (1) month's payment of the providers requested terms; ex., 36-month request = 1/36th minimum good faith payment. Payments less than this amount are not considered a good faith payment. Payments shall continue to be submitted monthly while the ERS is being reviewed.
- b. If under a 935 appeal, the provider shall continue to submit good faith payments or ERS payments. These payments are considered voluntary payments and not 935 recoupments.

## **50.1 – ERS Required Documentation --Physician is a Sole Proprietor**

*(Rev.312, Issued: 04-05-19, Effective: 10-01-19, Implementation 10-07-19)*

- A. The contractor shall require that the provider (physician/sole proprietor) furnish the following for ERS request of 12 months or less:
  1. **Signed Proposed Amortization Schedule** – The CMS requires a signed request, including a proposed monthly term and payment installment schedule, as a provider's agreement to pay its overpayment through installment payments. Signatures submitted in electronic form are permissible.
  2. **Installment Payments** – The CMS requires the provider to submit the first installment payment (per the proposed amortization schedule) (*good faith payment*), along with any future payments due while under review. *Providers shall submit a good faith payment each month until the ERS review is decided. The MAC shall recoup the estimated monthly amount until the ERS review is completed.*
- B. The contractor shall require that the provider (physician/sole proprietor) furnish the following for an ERS request over 12 months or more:
  1. **Signed Proposed Amortization Schedule** – *The* CMS requires a signed request, including a proposed monthly term and payment installment schedule, as a provider's agreement to pay its overpayment through installment payments. Signatures submitted in electronic form are permissible.
  2. **Installment Payments** – *The* CMS requires the provider to submit the first installment payment (per the proposed amortization schedule) (*good faith payment*), along with any future payments due while under review. *Providers shall submit a good faith payment each month until the ERS review is decided. The MAC shall recoup the estimated monthly amount until the ERS review is completed.*
  3. **CMS-379 Form** - a completed CMS -379 Form. The information requested on this form is

necessary for the contractor to determine if the physician/sole proprietor will be able to make installment payments on a claim.

4. **Financial Statements** - of Debtor.
5. **Income Tax Return** - a copy of the provider's income tax filing for the most recent calendar year.

## **50.2 - ERS Required Documentation– Provider is an Entity Other Than a Sole Proprietor**

*(Rev.312, Issued: 04-05-19, Effective: 10-01-19, Implementation 10-07-19)*

- A. The contractor shall require that the provider (NOT a physician/sole proprietor) furnish the following for an ERS request of 12 months *or less*:
  1. **Signed Proposed Amortization Schedule** – The CMS requires a signed request, including a proposed monthly term and payment installment schedule, as a provider's agreement to pay its overpayment through installment payments. Signatures submitted in electronic form are permissible.
  2. **Installment Payments** – *The CMS requires the provider to submit the first installment payment (per the proposed amortization schedule) (good faith payment), along with any future payments due while under review. Providers shall submit a good faith payment each month until the ERS review is decided. The MAC shall recoup the estimated monthly amount until the ERS review is completed.*
- B. The contractor shall require that the provider (NOT a physician/sole proprietor) furnish the following for ERS request over 12 months *or more*:
  1. **Signed Proposed Amortization Schedule** – The CMS requires a signed request, including a proposed monthly term and payment installment schedule, as a provider's agreement to pay its overpayment through installment payments. Signatures submitted in electronic form are permissible.
  2. **Installment Payments** – The CMS requires the provider to submit the first installment payment (per the proposed amortization schedule) (*good faith payment*), along with any future payments due while under review. *Providers shall submit a good faith payment each month until the ERS review is decided. The MAC shall recoup the estimated monthly amount until the ERS review is completed.*
  3. **Balance sheets** - the provider's most current balance sheet and the balance sheet for the last complete Medicare cost reporting period (or the most recent fiscal year).

### **NOTE:**

If the time period between the two balance sheets is less than 6 months (or the provider cannot submit balance sheets prepared by its accountant), it must submit balance sheets for the last two complete Medicare cost reporting periods (for providers that file a cost report) or for the last two complete fiscal years (for providers that don't file a cost report).

4. **Income statements** - related to the balance sheets. The CMS requires that both the balance sheets and income statements include similar agreement language:

MISREPRESENTATION OR FALSIFICATION OF ANY INFORMATION CONTAINED IN THIS BALANCE SHEET OR INCOME STATEMENT **SHALL** BE PUNISHABLE BY FINE AND/OR IMPRISONMENT UNDER FEDERAL LAW.

CERTIFICATION BY OFFICER/ADMINISTRATOR OF PROVIDER(S)  
(For physicians/suppliers, "CERTIFICATION BY OFFICER/OWNER OF DEBTOR(S))

I HEREBY CERTIFY that I have examined the balance sheet and income statement prepared by \_\_\_\_\_ and that, to the best of my knowledge and belief, it is a true, correct and complete statement from the books and records of the provider.

Signed

Officer/Administrator of Provider(s) Title

(For physicians/suppliers: Officer/Owner of Debtor(s)  
Title)

Date

5. **Cash flow statements** - for the periods covered by the balance sheets (see Exhibit 3 for recommended format). If the date of the provider's request for an extended repayment schedule is more than 3 months after the date of the most recent balance sheet, a cash flow statement shall be provided for all months between that date and the date of the request.
6. **Projected cash flow statement** - from the date of the request and covering the remainder of the fiscal year. If fewer than 6 months remain, the provider shall include a projected cash flow statement for the following year. (See Exhibit 3 for recommended format.)
7. **List of restricted cash funds** - by amount as of the date of request and the purpose for which each fund is to be used (if applicable).
8. **List of investments** - by type (stock, bond, etc.), amount and current market value as of the date of the report (if applicable).
9. **List of notes and mortgages payable** - by amounts as of the date of the report, and their due dates (if applicable).
10. **Schedule showing amounts** - due to and from related companies or individuals included in the balance sheets. The schedule should show the names of related organizations/persons, TIN and NPI numbers. It shall also show where the amounts appear on the balance sheet-- such as Accounts Receivable, Notes Receivable, etc.
11. **Schedule showing types** - amounts of expenses (included in the income statements) paid to related organizations. The schedule shall show names of the related organizations, TIN and NPI numbers.
12. **The percentage of occupancy**- by type of patient (e.g., Medicare, Medicaid, private pay) and total available bed days for the periods the income statements cover.

All financial records must be for the business participating in the program. It should not be for the owner if the business is a partnership or a corporation. If an outside facility manages the financial aspects of the business, the provider shall submit individual financial records, as well as the financial records of the outside facility.

### 50.3 - ERS Approval Process

Contractors shall not approve any ERS if any of the following apply:

1. When there is reason to suspect that the provider may:
  - a) the provider might file for bankruptcy;
  - b) cease to do business;
  - c) discontinue participation in the program; or when there is an indication of fraud or abuse committed against the program.
  
2. When any of the following is not submitted with request:
  - a) a signed request agreement;
  - b) all required documents;
  - c) a proposed term and installment schedule; and the first installment payment (per the proposed installment schedule).

<12 month ERS

The contractor shall review and confirm that none of the scenarios listed above apply. The contractor shall review 12 months of claims and payment history, and consider whether it supports full payment of the overpayment within <12 months. Once the contractor determines ability to repay, it shall examine the status of any outstanding overpayments, cost report settlements, advanced payments and accelerated payments. In the case any of these overpayments are excessive, in default or delinquent, the contractor shall determine if an ERS for <12 months is appropriate.

> 12 month ERS

The contractor shall review and confirm that none of the scenarios listed in the beginning of this section apply. The contractor shall analyze the financial data submitted by the provider to determine the availability of cash, marketable securities, accounts receivable, restricted and unrestricted endowment funds, or special funds, and considers whether these funds could be used for partial or full payment of the overpayment (see Exhibits 1-4 below).

The contractor shall review 12 months of claims and payment history, and considers whether it supports full payment of the overpayment within the requested months. Once the contractor determines ability to repay, it shall examine the status of any outstanding overpayments, cost report settlements, advanced payments and accelerated payments. In the case any of these overpayments are excessive, in default or delinquent, the contractor shall determine if an ERS is appropriate. The contractor shall reference and complete the ERS protocol sheet (see Exhibit 1) while reviewing and once a decision is made.

The contractor *should* alter the length of time when approving an ERS request, based on its analysis of the provider's submitted documentation. For example, if a provider requests 24 months, but the contractor determines that >12 months is sufficient, the contractor can deny the 24-month request and extend an offer of a 12-month repayment plan. If the contractor recommends approval of an ERS that is over 36 months in length, it shall forward the recommendation to the RO for approval within 30 days of receipt of the completed request.

The contractor *should* request additional financial information from the provider, *if needed*. It *should* also request financial information from the owner if the owner is requesting to submit personal capital to help repay the Medicare debt.

The contractor shall provide a recommendation to the RO; shall deny or approve for terms under its authority; or shall request additional information from the provider within 30 days of receipt of the completed ERS request.

If the provider is unable to furnish all of the required documentation listed in 50.1 and 50.2 of this chapter, a full explanation shall be provided as to why this is the case. All documentation shall be received within 30 days of *the date of the request* (see § 50(2) of this chapter). Where the provider's explanation is reasonable and the documentation is otherwise acceptable, the contractor shall forward the request for extended repayment to the RO with its recommendation, within 30 days receipt of the completed request. The contractor shall comply with Chapter 4 §40 regarding recouping the overpayments pending receipt of the provider's documentation and the contractor's decision on the extended repayment request.

If the provider is able to furnish all of the required documentation listed in 50.1 and 50.2 of this chapter timely, the contractor shall forward the request for extended repayment to the RO with its recommendation within 30 days receipt of the completed request.

Once the contractor completes the requirements for reviewing an ERS, it shall make a decision regarding approval or referral to the RO.

If the contractor determines that the provider **DOES** meet the requirements for an ERS, it shall:

- a) notify the provider in writing, within 5 business days of making the decision;
- b) include the amortization schedule showing principal and interest payment amounts and dates payments are due; and
- c) include approval information on the quarterly report (see § 50.4 of this chapter).

If the contractor determines that the provider **DOES NOT** meet the requirements for an ERS, it shall:

- a) notify the provider in writing, within 5 business days of making the decision;
- b) include the denial reason, in the notification; and
- c) include denial information on the quarterly report (see § 50.4 of this chapter).

In the case the provider:

**Rejects:** If a provider rejects the approved terms, it shall submit a written and signed rejection notice to the contractor. In this case, the contractor shall close out the request and follow normal recoupment policy and procedure, at a recoupment rate of 100% of the provider's payments.

**Disagrees:** If a provider requests additional months due to hardship, the contractor shall elevate the request to the RO for further review. When needed, the RO *should* contact CO for additional guidance.

**No Response:** If the provider has not responded, the contractor shall proceed with the ERS as outlined in the approved schedule.

**Exhibit I – Protocol for Reviewing Extended Repayment Schedule (ERS)**

Provider \_\_\_\_\_

Provider Number \_\_\_\_\_

(Part A Only) Cost Report \_\_\_\_\_

FYE (Part B Only) Date(s) \_\_\_\_\_

Overpaid Overpayment \_\_\_\_\_

Amount \$ \_\_\_\_\_

Date of Demand Letter \_\_\_\_\_

No. of Months Requested for ERS \_\_\_\_\_

Date of Request Received \_\_\_\_\_

Bankrupt \_\_\_ Terminated \_\_\_ Suspended \_\_\_ Revoked \_\_\_ Fraud \_\_\_ Documented \_\_\_

Decision Date (36 Months or less) \_\_\_\_\_ (36 or more) \_\_\_\_\_ # of Mos. Apprvd. \_\_\_\_\_

Date Referred to RO for Consideration \_\_\_\_\_

Name of Contractor \_\_\_\_\_

Decision Reason \_\_\_\_\_

Reviewed By \_\_\_\_\_

Contractor Analyst \_\_\_\_\_

Supervisor Review \_\_\_\_\_

Date \_\_\_\_\_



1. Contractor shall summarize the major reasons why the overpayment occurred.
2. Contractor shall review the documentation the provider submits to determine whether it is complete. (Refer to §50.1 and 50.2 for required documentation.) Contractor analyzes the financial data submitted (for an ERS over 12 months) to determine the availability of cash, marketable securities, accounts receivable, restricted and unrestricted endowment funds, or special funds, and considers whether these funds could be used for partial or full payment of the overpayment.
3. Contractor shall perform the following calculations by using the most current financial data that the provider submitted to determine whether the provider qualifies for an ERS.

(a) Current Ratio

The current ratio relates the dollar value of current assets to the dollar value of current liabilities in order to evaluate an organization's ability to pay its current debt. Derived as:

$$\frac{\text{CURRENT ASSETS}}{\text{CURRENT LIABILITIES}}$$

This ratio defines the number of dollars held in current assets per dollar of current liabilities (e.g., it relates current assets to current liabilities).

Multiple coverage of liabilities is desirable. Generally, high values for the current ratio imply a good ability to pay short-term obligations and, thus, a low probability of technical insolvency.

Normally, the contractor considers a current ratio of 2:1 adequate to meet current liabilities. However, a provider with a current ratio of 2:1 or greater can have short-term payment problems if its current assets are not expected to be in liquid form (cash or short-term investments) in time to meet the expected payment dates of the current liabilities.

(b) Quick Ratio

A liquidity ratio which measures the number of dollars of liquid assets (cash plus marketable securities plus accounts receivable) available per dollar of current liabilities. Derived as:

$$\frac{\text{CASH} + \text{MARKETABLE SECURITIES} + \text{ACCOUNTS RECEIVABLE}}{\text{CURRENT LIABILITIES}}$$

This is a more stringent measure of liquidity than the current ratio. The contractor uses it to determine the adequacy of cash, accounts receivable, and marketable securities to pay current liabilities.

Normally, the contractor considers a quick ratio of 1.5:1 adequate to meet current liabilities. However, a provider with a high quick ratio can have short-term payment problems if it has excessive amounts of slow-paying or doubtful accounts receivable, which it cannot turn into cash soon enough to meet maturing current liabilities. Conversely, a low quick ratio might not imply a future liquidity crisis if current liabilities include terms that will not require payment from existing current assets.

4. The contractor for institutional providers shall determine whether there are any settlements (interim rate adjustments or cost report) in process which could be used to offset the outstanding overpayment.
5. Based upon the previous steps, the contractor shall summarize whether or not it should approve or deny, or recommend approval of a repayment plan. If it recommends approval, it indicates the number of months, how it calculated the monthly payment and the reason(s) for the approval. If it recommends denial, it indicates the reason(s).

## Exhibit 2 - Cash Flow Statement Period Covered

### CASH FLOW STATEMENT FOR THE PERIOD \_\_\_\_\_

Cash provided by:

Operations (net) (Schedule A) (See Exhibit 4)	\$XXXXX
Cash donations (unrestricted)	XXXX
Long-term borrowing	XXXX
Investment earnings (cash dividends, interest)	XXXX
Sale of long-term investments	XXXX
Sale of equipment	XXXX
Issuance of bonds	XXXX
Decrease in current assets – other than Accounts Receivable, Prepaid Expenses, and Inventory	XXXX
Increase in current liabilities – other than Accounts Receivable, Prepaid Expense, and Inventory	XXXX
Others	<u>XXXX</u>
Total Cash Provided	\$XXXXX

**CASH FLOW STATEMENT  
FOR THE PERIOD \_\_\_\_\_**

Cash applied to:

Purchase of equipment	\$XXXX
Payment of long-term debt	XXXX
Purchase of long-term investments	
Payment of dividends	
Purchase of land and/or building (Purchase price less mortgage, capital stock and non-cash assets given toward purchase)	XXXX
Increases in current assets - other than Accounts Receivable, Prepaid Expenses, and Inventory	XXXX
Decreases in current liabilities – other than Accounts Payable and Prepaid Income	<u>XXXX</u>
Other	XXXX
	Total Cash Applied <u>XXXX</u>
Increase (Decrease) in Cash	<u>\$XXXX</u>

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- - Cash at end of period (date)	\$XXXX
Less: Cash at beginning of period (date)	<u>XXXX</u>
Increase (Decrease) in Cash	<u>XXXX</u>

**Exhibit 3 - Projected Cash Flow Statement Cash from Operations  
(Schedule A) Period Covered**

**PROJECTED CASH FLOW  
CASH FROM OPERATIONS (SCHEDULE A)**

Net Income (or Net Loss)

	\$XXXX Increases:	Depreciation expense
	\$XXXX	
	Loss from sale of equipment	XXXX
	Decrease in net Accounts Receivable	XXXX
	Decrease in Prepaid Expense	XXXX
	Decrease in Inventory	XXXX
	Increase in Accounts Payable	XXXX
	Increase in Prepaid Income	XXXX
	Others	XXXX
	from Operations	XXXX Gross Cash
Decreases:	Gain from sale of equipment	\$XXXX
	Increase in net Accounts Receivable	XXXX
	Increase in Prepaid Expense	XXXX
	Increase in Inventory	XXXX

Decrease in Accounts Payable	XXXX
Decrease in Prepaid Income	XXXX
Others	<u>XXXX</u>
<u>XXXX</u> Net Cash from Operations	<u>XXXX</u>
	\$XXXX

<b>Requirements to be Completed before approval or denial</b>	<b>12 months</b>	<b>&gt;12 months to 36 months</b>	<b>&gt;36 months to 60 months – RO or CO ONLY</b>
<b>Received and Reviewed <u>all</u></b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Received and Applied submitted payments while under review</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Complete ERS Protocol (See Exhibit 1)</b>		<b>X</b>	<b>X</b>
<b>Analyzed Financial Statements</b>		<b>X</b>	<b>X</b>
<b>Reviewed last 12 months Claim History</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Reviewed last 12 months Payment History</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Reviewed status of Additional Outstanding Overpayments</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Confirmed No Active Bankruptcy</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Confirmed Enrollment Status – Terminated, Revoked, Suspended</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Reviewed status of Outstanding Advance/Accelerated Payments</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Part A- Reviewed status of Outstanding Cost Report Settlements</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Confirmed No Outstanding Fraud Investigations</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Sent to RO/CO for additional approval</b>			<b>X</b>

**50.4 – Sending the ERS Request to the Regional Office (RO)**  
*(Rev.312, Issued: 04-05-19, Effective: 10-01-19, Implementation 10-07-19)*

After the contractor has reviewed the provider's supporting documentation and determines that a referral is needed or the request is over 36 months, it shall send its recommendation to the RO for consideration of approval. The contractor shall submit the following:

1. A copy of all information the provider submitted.
2. The date of the initial contact between the contractor and the provider regarding the overpayment.
3. Copies of all correspondence, including demand letters and the complete ERS request. Also include notes of telephone conversations, if any.
4. Part A - The amount of the overpayment; cost report year in which it occurred; dates and amounts of any repayments; dates and amounts of payments (interim or retroactive) held in account.
5. Part B - The amount of the overpayment, claim paid date, dates and amounts of any repayment.
6. Part A - The cost reports in which the overpayments appeared or were found. The contractor shall furnish any information it has on the financial status of related organizations, as determined through audits and other sources, such as mercantile reports.
7. Documentation reflecting current enrollment status along with any bankruptcy, fraud and abuse and other litigation cases.
8. Amount repaid to date on pending ERS request along with current status on any additional outstanding overpayments.
9. The provider's proposed repayment plan and rationale.
10. The contractor's recommendation and supporting rationale including a completed ERS protocol (See Exhibit 1) and the last 12 months' claim and payment history.
11. The contractor's opinion, based on experience, as to the reliability of the financial data.

The RO *will* grant a provider an ERS of:

(a) 7 months up to 36 months if repaying an overpayment in full will constitute a "hardship," as defined in section 50 of this chapter.

(b) 37 months up to 60 months if repaying an overpayment in full will constitute an "extreme hardship," as defined in section 50 of this chapter. See also 42 CFR 401-607(c)(2)(vi).

If the contractor receives no response from the RO in 30 days, the contractor shall follow up with the RO for a status update.

**NOTE:** An ERS shall be repaid through recoupment, unless a provider supplies a valid reason why the ERS shall not be repaid through recoupment.

## **50.5 - Monitoring an Approved Extended Repayment Schedule (ERS) and Reporting Requirements**

*(Rev.312, Issued: 04-05-19, Effective: 10-01-19, Implementation 10-07-19)*



After approval of an ERS, the contractor shall continue to monitor the case to ascertain whether recovery is being effectuated as contemplated. If it becomes apparent that the repayment plan will not result in a liquidation of the indebtedness within the time period contemplated, the contractor shall take further action, preferably the renegotiation of the amount of installment payments so that the overpayment will be recouped within the time period originally agreed upon. The contractor shall report to the RO any significant changes in the provider's financial condition or any indication that the provider misstated or failed to disclose pertinent facts that could raise a question of its ability to liquidate the overpayment. The contractor shall notify the RO within 5 business days and send a detailed written statement of the problem.

### **ERS Reporting:**

Contractors shall report data on all approved and denied ERS request to their RO quarterly. The RO shall direct these reports to CO, as needed or requested. The preferred format would be in an Excel spreadsheet with 3 tabs: Approved, Denied and Pending.

This data shall include:

1. Provider name
2. Provider number
3. Provider Status
4. Provider Type
5. AR number
6. FYE Date
7. Original Overpayment Amount (breaking out principle and interest)
8. Overpayment Description
9. Demand Letter Date
10. 935 Appeal Y/N
11. Fraud Investigation Pending Y/N
12. ERS Receipt Date
13. ERS Status (approved, denied, pending, referred to RO)
14. Required Documentation Receipt Date
15. Underpayment Amount Applied to ERS
16. Underpayment Amount Refunded to Provider
17. Recoupment Amount Applied to ERS
18. Length Requested
19. Length Approved
20. Date Additional Information Requested
21. Date Additional Information Received
22. Date Referred to RO
23. Contractor Referral Decision Submitted to RO (approve or deny)
24. Final Decision
25. Decision Date
26. Denial reason
27. ERS Monthly Payment
28. ERS Term Dates
29. Interest Rate
30. ERS Loan Number
31. Offset in Place Y/N
32. Paid In Full Date
33. ERS Default Date
34. Delinquent Payment Collection Amount
35. ITR Sent Date
36. Referred to Treasury
37. ERS Revised Terms
38. Comments

## **50.6 - Requests from Terminated Providers or Debts that are Pending Referral to Department of Treasury**

*(Rev.312, Issued: 04-05-19, Effective: 10-01-19, Implementation 10-07-19)*

When approving/denying an ERS request, the contractor is making a subjective decision concerning the provider's ability to repay. All complete ERS requests shall be reviewed by the contractor. This includes ERS requests from terminated providers and requests received for debts where the contractor has already sent an Intent to Refer (ITR) letter.

### *Terminated Providers:*

*If a terminated provider submits an ERS request, the MAC shall consider the provider's ability to repay the debt over time.*

*The contractor shall refer requests to the RO if it determines that an ERS is in the best interest of the Medicare program; prior to denying the request based on the requirements in section 50.3. In addition, if the contractor has a reason to believe that the provider will terminate the program, they should research this issue and refer the request to the RO for a decision.*

### *Debts that are Pending Referral to Department of Treasury:*

*If a contractor has sent an ITR letter and the contractor has approved an ERS prior to referral, the debt shall not be referred to Treasury. It is preferred to recoup payments from present and future claims payments. If recoupment of payments is not possible, the contractor shall accept monthly checks in the full amount agreed. If the provider misses one payment (31 days past due), the contractor shall continue with normal debt collection (including discontinuing the ERS, pursuing the full balance owed, and/or referral to Treasury).*

If denying an ERS request will result in the immediate referral of an active provider to the Department of Treasury, the contractor shall contact the RO to determine if an alternative exists.

**NOTE:** The requirements set forth in the Debt Collection Improvement Act of 1996 still apply.