

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-06 Medicare Financial Management	Centers for Medicare & Medicaid Services (CMS)
Transmittal 259	Date: January 15, 2016
	Change Request 9469

SUBJECT: Internet Only Manual Pub.100-06, Chapter 4 Revisions to Reflect the New Debt Referral Requirements Mandated by the Digital Accountability and Transparency Act of 2014 (DATA Act)

I. SUMMARY OF CHANGES: This Change Request will revise Chapter 4 of Pub. 100-06 to reflect the new debt referral requirements that resulted from the Digital Accountability and Transparency Act of 2014 (DATA Act) which amended the Debt Collection Improvement Act of 1996 (DCIA).

EFFECTIVE DATE: February 16, 2016

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

IMPLEMENTATION DATE: February 16, 2016

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/revise 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	4/10/ Requirements for Collecting Part A and B Non-MSP Provider Overpayments
R	4/10.1/ Required Timeframes for Debt Collection Process for Provider Non-MSP Overpayments
R	4/70.5/ Referral Requirements
R	4/70.17/70.17.5/Debts RTA by Treasury as paid in Full (RP), Satisfied Payment Agreement (RS) or Satisfied Compromise (RC) - Exhibit 1 Intent to Refer Letter (IRL)

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: 259	Date: January 15, 2106	Change Request: 9469
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I. GENERAL INFORMATION

A. Background: The Debt Collection Improvement Act of 1996 (DCIA) originally required all federal agencies to refer all eligible delinquent debt to Treasury by the 180th day of delinquency. The Digital Accountability and Transparency Act of 2014 (DATA Act) now requires all eligible delinquent debt to be referred to Treasury by the 120th day of delinquency.

B. Policy: The DATA Act requires all federal agencies to refer all eligible delinquent debt to Treasury by the 120th day of delinquency.

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	
9469.1	The Medicare Administrative Contractors shall refer all eligible delinquent debts to Treasury by the 120th day of delinquency as mandated by the Digital Accountability and Transparency Act of 2014 (DATA Act).	X	X	X	X					BCRC, CRC, MSPIC, MSPSC

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

V. CONTACTS

Pre-Implementation Contact(s): Jay Blake, 410-786-9371 or jay.blake@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

10 - Requirements for Collecting Part A and B Non-MSP Provider Overpayments

(Rev. 259, Issued: 01-15-16 Effective: 02-16-16, Implementation: 02-16-16)

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

The following collection activities are the minimum requirements the Medicare contractor (contractor) shall follow for all Non-MSP provider overpayments. Where additional information is located elsewhere in the manual chapter, an annotation of the specific section is included.

(See Publication 100-06, chapter 3, §40 and chapter 4, §70.16 for additional instructions related to Part A provider initiated claim adjustment accounts receivable).

1. Initial Demand letter

The contractor shall send an initial demand letter within established timeframes of the identification or notification of an overpayment. The contractor shall ensure the date of the initial demand letter is the date the AR is established and the date the letter is mailed.

The initial demand letter shall include all required language and shall meet timeliness standards as outlined in chapter 3 §200 and/or chapter 4 §§20 and 90.

a. Dollar threshold

The threshold amount to send demand letters is \$25. The contractor shall aggregate all of the overpayments to the provider to meet the threshold amount for the initial demand letter.

b. Undeliverable demand letter

If the contractor receives the initial demand letter back as undeliverable, the contractor shall attempt to reach the provider by telephone within 10 days of receiving the undeliverable letter.

If the contractor is unsuccessful at reaching the provider by telephone, the contractor shall at the minimum attempt to locate the provider through other means including:

- Querying the Provider Enrollment Change of Ownership System (PECOS) to determine if there is updated contact information (including an email address) for the provide);
- Contacting the medical review staff or fraud and abuse staff for possible updates on the debtor’s whereabouts;
- Conducting research to see if the provider is in bankruptcy or litigation, and by using the name of the owners, partners, or the corporation officers;
- Conducting an internet search site, including using Lexis-Nexis® or a similar program;
- Contacting the servicing regional office (RO) for assistance or further guidance, if the contractor does not have access to a search engine.

The contractor shall document in the case file all attempts to contact the provider.

2. Recoupment

The contractor shall initiate recoupment of the debt, or any remaining balance of the debt, as outlined below, except when the debt is in the following status: (1) appeal subject to the Limitation on Recoupment provisions (redetermination/reconsideration), (2) bankruptcy, (3) Extended Repayment Schedule (ERS) or (4) a pending ERS request.

For Part A (Non-935 Overpayments)

- Recoupment shall begin 16 days from the date of initial demand letter if the debt **is not** subject to Limitation on Recoupment provisions of Section 935(f)(2) of the MMA. (See chapter 3, §200)
- Refer to chapter 4, §70.16 for Claims Accounts Receivable (A/R) instructions.

For Part B (935 and Non-935) and Part A 935 Overpayments

- Recoupment shall begin 41 days from the date of the initial demand letter.

Recoupment shall continue until the debt is collected in full or is in a status that excludes recoupment.

3. Interest

If the overpayment is not paid in full 30 days from the date of the initial demand letter, contractors shall ensure that 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 paid in full. Refer to chapter 4, §30 and 42 CFR 405.378 for additional information.

4. Telephone Contacts:

Contractors shall attempt to contact providers by phone, at least twice, as follows:

a. First telephone contact

- **Providers who have been terminated/revoked/ or have withdrawn from the Medicare program:**

- The telephone contact shall be made within 10 days of the contractor's notification of termination/revocation/withdrawal.

- **Active Providers:**

- The telephone contact shall be made when the debt is at least 60 days delinquent (90 days from the date of the demand letter) and is not in an appeal, litigation, ERS, or bankruptcy status.

- The telephone contact may be made sooner if the contractor believes that earlier contact may result in a collection.

- In situations where the provider cannot be reached by telephone the contractor shall leave a voicemail as needed.

- **Successful Phone Contact:**

- The contractor shall inform the provider of repayment options (e.g. ERS) and explain that any unpaid delinquent debt will be referred to Treasury for further collection activity. If the provider has a surety bond, the contractor shall inform the provider that the debt will be collected through the surety, and any remaining balance will be referred to Treasury.

- If the first call is successful, (second call would not be necessary) document the contact.

- **Unsuccessful Phone Contact**

- The contractor shall discontinue telephone efforts when a provider's number is disconnected.

○ The contractor shall at the minimum attempt to locate the provider through other means as listed in discussion of undeliverable demand letters, section 1(b), above.

b. Second Phone Contact

The second phone call is only necessary if the contractor was unable to directly communicate with the provider on the first call.

- The contractor shall make a second phone call to the provider at least 7 days before referring the debt to Treasury.

- The contractor shall leave a voicemail where the call is directed to voice messaging.

○ Leaving the second voicemail message shall be sufficient for attempting to reach the provider by telephone.

The contractor shall document, in the case file, all attempts to contact the provider.

5. Extended Repayment Schedule (ERS)

If the provider submits an application for an ERS, the contractor shall follow the instructions in Chapter 4 §50. An ERS application may be requested at any time during the collection process.

6. Intent to Refer letter

For providers who have been terminated/revoked or have withdrawn from the Medicare program:

The contractor shall send the ITR:

- If the initial demand letter was returned undeliverable and a better address cannot be located, or
- When the contractor has verified in PECOS or Provider Enrollment that the provider is terminated or out of business.

The contractor shall send the ITR within 10 days of receipt of the undeliverable letter or knowledge that the provider is out of business or terminated.

For active providers:

The contractor shall send the ITR when the debt is **at least** 30 days delinquent (60 days from the determination date)* and is not in a status excluded from debt referral.

NOTE: In all cases, the contractor shall ensure that the ITR is sent in enough time to allow the debtor 60 days' notice prior to referral to Treasury. In accordance with provisions of the *Digital Accountability and Transparency Act of 2014 (DATA Act) which amended the Debt Collection Improvement Act of 1996 (DCIA)*, eligible delinquent debts must be referred to Treasury by the *120th* day of delinquency. (Refer to IOM Pub. 100-06, chapter 4, §70 for further detail.)

* The Healthcare Integrated General Ledger Accounting System (HIGLAS) adds an additional 5 grace days when determining when to generate the ITR to allow for interest accruals to appear on the ITR; therefore the ITR will be generated on day 66.

7. Surety Bond

Prior to referral to Treasury, DME contractors shall refer to instructions outlined in Publication 100-08, Medicare Program Integrity Manual, chapter 15, §21.7.1.

8. Debt Collection System (DCS)

The contractor shall ensure that debts are entered to DCS timely and accurately. Unless the ITR is returned undeliverable; the contractor shall provide at least 60 days' notice from the date of the ITR before entering the debt to DCS. If the ITR is returned undeliverable and a better address cannot be located, the contractor shall, within 10 days of the returned ITR, enter the debt to DCS for referral to Treasury. (Refer to Pub. 100-06, Chapter 4, §70 for further detail.)

9. Record Keeping

The contractor shall keep records of all collection activities through all stages of the debt collection process. This record shall be detailed and include all correspondence and conversations with the provider, checks, and any other documents associated with debt collection processes

10.1 - Required Timeframes for Debt Collection Process for Provider Overpayments

(Rev. 259, Issued: 01-15-16 Effective: 02-16-16, Implementation: 02-16-16)

Listed below are the general timeframes for most overpayment debt collection activities. There may be instances, due to specific circumstances related to the debt, where these timeframes will not apply.

Timeframes (Based on Date of Demand Letter)	Medicare Contractor
Day 1	The accounts receivable (AR) is created, the initial demand letter sent. Contractors shall ensure that the dates for establishing the AR, creating the demand letter and mailing the letter are the same.
<i>Day 15</i>	<i>Deadline for provider rebuttal request. A rebuttal does not delay recoupment.</i>
<i>Day 16</i>	Immediate Recoupment, if requested by the provider starts by day 16.
Day 16	Recoupment shall begin for overpayments not subject to Limitation on Recoupment provisions of Section 935 (f)(2) of the MMA unless the debt is in an excluded category (ERS Request, an approved ERS, appeal or bankruptcy).
Day 31	Interest shall begin to accrue if overpayment is not paid in full by day 30.
Day 41	If not paid in full by day 40, recoupment begins for overpayments subject to Limitation on Recoupment provisions of Section 935(f)(2) of the MMA unless in an excluded category (ERS Request, an approved ERS, appeal or bankruptcy).
Day 90	The contractor shall attempt to contact the provider by telephone if the debt is 60 days delinquent and not in a status excluded from referral to Treasury.
Day 61-90	The contractor shall send the ITR on eligible delinquent debts.
Day <i>126-150</i>	Eligible delinquent debt shall be <i>referred to Treasury.</i>
At least 7 days prior to referral to Treasury	The contractor shall make a second call to the provider before the debt is referred to Treasury.
Prior to Referral to Treasury (DME Only)	The DME contractor shall follow instructions in IOM Pub. 100-8, Chapter 15, related to surety bond collection requirements.

70.5 - Referral Requirements

(Rev. 259, Issued: 01-15-16 Effective: 02-16-16, Implementation: 02-16-16)

The Centers for Medicare & Medicaid Services (CMS) is mandated to refer all eligible debt, *120* days delinquent, for cross servicing and/or TOP. Additionally, the CMS has the option of referring such debt before it is *120* days delinquent.

70.17.5 – Debts RTA Pending Final Disposition

(Rev. 259, Issued: 01-15-16 Effective: 02-16-16, Implementation: 02-16-16)

The CMS updates debts in the DCS to the above status codes unless the debts are already in a paid in full status. If the principal balance of the debts in DCS and in the contractor's internal systems are \$100 or less, the contractors shall update the DCS status code from RP to 2Q (Cross-Servicing Collection – Paid-in-Full) or RC to 2C (Cross Servicing Collection – System Compromise) as applicable. The contractors shall close out the debts in their internal systems and any balance shall be adjusted to zero.

If the principal balance of the debts in the DCS and the contractors' internal systems has a negative balance, the contractors shall update the DCS using the codes listed above. The contractors shall analyze the payments received and determine if a refund should be issued (See CMS Pub. 100-06, chapter 4, section 70.14.8). If it is determined a refund is valid, the contractors shall follow procedures for applying excess collections and update their internal systems as well as the DCS to reflect any refund given (See CMS Pub. 100-06, chapter 4, section 70.14.8).

If the principal balance of the debts in DCS and in the contractors' internal system is greater than \$100, these debts shall remain in status codes RP or RC in DCS. The CMS will issue additional instructions regarding the debts for this workload in the future.

The contractor shall consider these debts as paid in full and shall annotate their internal systems accordingly so that no additional collections are applied to these debts. The contractors shall add a comment on the DCS comment screen reflecting any action taken, the date of the RTA report in which the debts appear on and the financial statement reporting quarter in which the debts were resolved.

Exhibit 1

(Rev. 259, Issued: 01-15-16 Effective: 02-16-16, Implementation: 02-16-16)

Intent to Refer Letter

Background

The DCIA requires Federal agencies to refer debt that is **120** days delinquent to the Department of Treasury or a Treasury designated Debt Collection Center for cross servicing.

Prior to debt transfer, the DCIA requires agencies to inform the debtor of the agency's intent to refer the debt, and to provide debtor information regarding the referral process.

Attached are specific paragraphs that explain the process and debtor rights. These paragraphs shall be included in the intent to refer letter sent to the debtor.

Medicare contractors should use their own language in the opening paragraphs to explain the reason for the overpayment and the current balance, including interest accrued and the interest rate.

Subject in Bold: Notice of Intent to Refer Debt to the Department of Treasury's Debt Collection Center for Cross Servicing and Offset of Federal Payments and Certain Eligible State Payments

Contractor opening paragraphs concerning the reason for the overpayment, date of determination and amount due. May refer to previous demand letters or other forms of contact regarding the debt.

Your debt to the Medicare Program is delinquent and, by this letter, we are providing notice that your debt will be referred to the Department of Treasury's Debt Collection Center (DCC) for Cross Servicing and Offset of Federal Payments. Your debt will be referred under provisions of Federal law, title 31 of the United States Code, Section 3720A and the authority of the Debt Collection Improvement Act of 1996.

The Debt Collection Improvement Act of 1996 (DCIA) requires Federal agencies to refer delinquent debts to the Department of Treasury and/or a designated Debt Collection Center (DCC) for collection through cross servicing and/or the Treasury Offset Program. Under the offset program, delinquent Federal debts are collected through offset of other Federal agency payments you may be entitled to, including the offset of your income tax return through the Internal Revenue Service (IRS). The TOP offsets can also be taken from eligible state payments to which you are entitled.

The Debt Collection Center will use various tools to collect the debt, including offset, demand letters, phone calls, referral to a private collection agency and referral to the Department of Justice for litigation. Other collection tools available, which may be used, include Federal salary offset and administrative wage garnishment. If the debt is discharged, it may be reported to the IRS as potential taxable income.

During the collection process, interest will continue to accrue on the debt and you will remain legally responsible for any amount not satisfied through the collection efforts.

For Individual Debtors Filing a Joint Federal Income Tax Return

The Treasury Offset Program automatically refers debts to the IRS for offset. Your Federal income tax refund is subject to offset under this program. If you file a joint income tax return, you should contact the IRS before filing your tax return to determine the steps to be taken to protect the share of the refund which may be payable to the non-debtor spouse.

Federal Salary Offset

If the facility ownership is either a sole proprietorship or partnership, your individual salary(s) may be offset if you are or become a federal employee.

Medicaid Offset

As authorized at 42 CFR 447.30, (Subsection 1885 of the Social Security Act), CMS may instruct the State Medicaid Agency to offset the Federal share of any Medicaid payment due you, your agency and/or related facilities. At that time, the offset will remain in effect until the Medicare overpayment is paid in full.

Please read the following instructions carefully to determine what action you may take to avoid referral for cross servicing/offset.

Due Process

You have the right to request an opportunity to inspect and copy records relating to the debt. This request must be submitted in writing to the address listed below. You have a right to present evidence that all or part of your debt is not past due or legally enforceable. In order to exercise this right, this office must receive a copy of the evidence to support your position, along with a copy of this letter. You must submit any evidence that the debt is not owed or legally enforceable within 60 days of the date of this letter. If, after sixty days from the date of this letter, we have not received such evidence, your debt, if it is still outstanding and eligible for referral, will be referred to the Department of Treasury or its designated Debt Collection Center for cross servicing/offset.

Repayment

Your debt will not be referred to the Department of Treasury if you make payment in full. The past due amount of \$ _____ owed to the Medicare Program as of _____ includes interest accrued through _____. **(Note: Medicare contractors may alter this sentence to read: The past due amount owed to the Medicare Program as of the date of this letter includes current accrued interest. This sentence may be omitted for debts that do not accrue interest.)** Interest is accrued monthly and is added to the balance of the debt.

Your check or money order for the amount due should be made payable to:

Medicare
Contractor Address
000 Street
Anywhere, USA 00000-0000.

Include a copy of this letter with your payment.

If you cannot make payment in full, you may be allowed to enter into an extended repayment agreement. If you are interested in an extended repayment agreement, please contact this office.

Bankruptcy

If you have filed for bankruptcy and an automatic stay is in effect, you are not subject to offset while the automatic stay is in effect. Documentation supporting your bankruptcy status, along with a copy of this notice, must be forwarded to this office at the above address.

If you have any questions concerning this debt, please contact _____
at _____.

Sincerely,

Signature of Certifying Official

Official Position