

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-20 One-Time Notification</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 376</b>	<b>Date: SEPTEMBER 26, 2008</b>
	<b>Change Request 5986</b>

**SUBJECT: Limitation on Recoupment - MCS Recoupment and Claims Adjustment Process**

**I. SUMMARY OF CHANGES:** Section 1893(f)(2) of the Social Security Act, added by Section 935(a) of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA) requires CMS to change the way Medicare recoups certain overpayments.

**NEW / REVISED MATERIAL**

**EFFECTIVE DATE:** \*January 1, 2009

**IMPLEMENTATION DATE:** January 5, 2009 – Reporting  
Interest payout checks  
Demand letter automation 1<sup>st</sup> sent with 2<sup>nd</sup>.

April 6, 2009 - 935 on record and send to HIGLAS  
Accounts receivable record and screen changes

July 6, 2009 - TK automation with accounts receivable records

October 5, 2009 - Miscellaneous case tracking and letter changes requested by carriers.

*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
N/A	

**III. FUNDING:**

**SECTION A:** For Fiscal Intermediaries and Carriers:

No additional funding will be provided by CMS; Contractor activities are to be carried out within their operating budgets.

**SECTION B: 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:**

**One-Time Notification**

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

# Attachment – One-Time Notification

Pub. 100-20	Transmittal: 376	Date: September 26, 2008	Change Request: 5986
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**This CR will be implemented over multiple releases.**

## **I. GENERAL INFORMATION**

**A. Background:** Section 1893(f)(2) of the Social Security Act, added by Section 935(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), requires CMS to change the way Medicare recoups certain overpayments. 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. This MMA provision requires that if a provider of services or a supplier seeks a reconsideration by a Qualified Independent Contractor (QIC) on an overpayment determination, CMS and its Medicare contractors may not recoup the overpayment until the date the decision on the reconsideration has been rendered. The QIC is the second level of appeal in the Medicare claims appeal process; the contractor redetermination is the first level of appeal. Section 1893(f)(2), the limitation on recoupment, also changed Medicare's obligation to pay interest to a provider or supplier whose appeal is successful at levels above the QIC.

On September 22, 2006, CMS published for public comment a proposed rule to implement Section 1893(f)(2). This proposed rule is not in effect and may be modified based on public comments received. However, certain features of the current claims adjustment process are incompatible with the limitation on recoupment and need to be changed to bring CMS into compliance with the final rule once published and in effect. The MCS system shall coordinate with HIGLAS to identify all claims subject to 935.

In addition, to the extent it is feasible and cost-effective to do so, certain new or revised overpayment recovery processes required to fully implement the limitation on recoupment should be automated. For planning and system design purposes, these changes should reflect the following approach. For Part B overpayments subject to 1893(f)(2), receipt of a timely and valid request for appeal (the contractor redetermination) triggers the limitation on recoupment. Once the contractor has determined the overpayment and adjusted the claim in the MCS system, the withholding of the overpayment will automatically be set to begin withholding on day 41 from the determination date. When that day is current the withholding shall begin if the provider has not submitted an appeal for redetermination (first level of appeal). If an appeal was submitted by the provider within those 40 days the withholding will not begin. If the contractor redetermination results in a full or partial affirmation of the overpayment, contractors can begin or resume recoupment starting on day 61 and no later than day 76 after

giving notice unless the provider appeals to the QIC in the interim. The contractor should cease or not begin recoupment if the QIC notifies the contractor that a valid and timely request for a reconsideration (second level appeal) has been received. Following final action by the QIC, the contractor can initiate or resume recoupment whether or not the provider subsequently appeals to the Administrative Law Judge (ALJ) (third level of appeal). For a period of up to 30-45 days following final action by the QIC and resumption of recoupment, Medicare contractors should not issue a second demand letter, the intent to refer letter, nor proceed with referral to the Department of Treasury. Interest will continue to accrue under current policies but will not be assessed when recoupment is stopped at either the redetermination or reconsideration (first and second level of appeals).

**B. Policy:** This CR does not constitute policy to implement the limitation on recoupment. It is one of a series of CRs that are being issued designed to fully implement section 1893(f)(2) and the final implementing regulation when published and in effect.

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B	D M E	F I	C A R R I E R	R H I	Shared-System Maintainers				OTHER
		M A C	M A C		I E R		F I S S	M C S	V M S	C W F	
5986.1	The Contractor shall identify the adjustment as applicable to the 935 process.	X			X						
5986.1.1	The contractor shall determine if the limitations apply to the claim at the time of the adjustment and annotate the system of the 935 adjustment.	X			X			X			
5986.2	The system shall recognize most overpayment claim adjustments as 935 applicable with the exclusion of beneficiary overpayments and provider initiated adjustments.							X			HIGLAS
5986.3	Contractor shall cease recoupment or not begin recoupment at the normally scheduled time. This happens when a valid first level appeal (redetermination) or a valid second level appeal (reconsideration) is received by a Physician or other supplier on an overpayment subject to these limitations.	X			X						
5986.4	MCS (Multi Carrier System) shall pass the 935 adjustments indicator to HIGLAS.							X			
5986.5	HIGLAS maintainers shall make separate changes to the HIGLAS system for users.										HIGLAS
5986.6	HIGLAS will issue the appropriate demand letter with 935 verbiage.										HIGLAS
5986.6.1	The Non-HIGLAS Contractor shall issue the appropriate demand letter with the 935 verbiage.	X			X						
5986.6.2	The system shall automate one 2 <sup>nd</sup> demand letter to include all of the claims associated with the initial demand letter.							X			HIGLAS
5986.6.3	The system shall automate the sending and including of the initial demand letter to be generated with the 2 <sup>nd</sup>							X			HIGLAS

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B  M A C	D M E  M A C	F I  M A C	C A R I E R	R H H I  S S	Shared-System Maintainers				OTHER
						F I S S	M C S	V M S	C W F		
	demand letter.										
5986.6.4	The Contractor shall ensure the language in the demand letter makes clear that the provider may appeal all of the claims from the overpayment demand or only part of the claims.	X			X						
5986.7	The Contractor shall include a claim level detail report of the claim adjustments that comprise the overpayment along with the demand letter to each provider.	X			X		X				
5986.8	Debts continue to age and accrue interest.						X			HIGLAS	
5986.8.1	The system shall allow for 935 interest due to the provider to be paid regardless of any outstanding debts showing in the system. This would be exclusive to interest paid when a provider wins at the ALJ level or contractor late payment interest.						X			HIGLAS	
5986.8.2	The contractor shall process a special check to pay 935 interest in the instances when a provider wins at the ALJ level or contractor late payment interest. This interest shall not be applied to any outstanding debts.				X						
5986.8.3	The system shall produce the interest information. This 935 interest shall be considered as income and the provider shall report this on the 1099 INT form.						X			HIGLAS	
5986.8.4	The system shall breakout separately collections for interest and principal calculations for each AR.						X			HIGLAS	
5986.9	The system shall maintain all levels of appeal data on 935 tracking file including dates, dollar amounts, levels and age of appeal, account receivable numbers, decisions and number of claims. The 935 tracking file will dictate subsequent collection activities and interest due based on this data.						X			HIGLAS	
5986.10	The system shall produce a Daily 935 appeals detail reports for Redeterminations, Reconsideration and ALJ appeals. The 935 appeals reports shall capture all collection activities and should include but are not limited to the following: <ul style="list-style-type: none"> <li>• Account Receivable number</li> <li>• Account Dollar amount</li> <li>• Provider Number/NPI</li> <li>• Appeal dates</li> <li>• Decision dates</li> <li>• Decision determination</li> <li>• Accrued Interest</li> </ul>						X			HIGLAS	

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B  M A C	D M E  M A C	F I  M A C	C A R R I E R	R H I  S S	Shared-System Maintainers				OTHER
						F I S S	M C S	V M S	C W F		
	<ul style="list-style-type: none"> <li>Pending/Closed Status</li> <li>Demand Letter Notification date</li> <li>Decision Age</li> <li>Scheduled Offset date</li> <li>Date of Last Activity</li> </ul> Report will be sent via email to: <u>CMS_Medicareoverpayments@cms.hhs.gov.</u> A final report is due quarterly to CMS but available daily for contractor use.										
5986.11	Contractor shall update the tracking record when a valid request for appeal has been received.	X			X						
5986.12	Recoupment shall cease or not begin at the normal scheduled time once a valid 1 <sup>st</sup> or 2 <sup>nd</sup> level appeal request is entered in the tracking file.						X			HIGLAS	
5986.13	If funds were withheld, they shall not be released. They shall be held until a final appeal determination unless both conditions below are met: <ol style="list-style-type: none"> <li>the provider specifically requests this,</li> <li>and the Contractor continued to recoup for an administratively unreasonable period of time after the date of receipt of the valid appeal request.</li> </ol>	X			X						
5986.14	The Contractor shall have the capability to stop the withholding activity manually if the receivable is being collected via withholding and for whatever reason, other than the appeal date.	X			X						
5986.13	<b>Level 1 Contractor Redetermination decision</b>  Contractor shall enter decision, dollar amounts and related dates in the tracking file.	X			X						
5986.13.1	Carriers shall send additional demand letters to be sent as necessary based on data on the tracking file.	X			X					HIGLAS	
5986.13.2	Recoupment shall automatically resume for affirmed or partially favorable decisions in 60 days no longer than 75 days based on data on the tracking file unless the provider requests a reconsideration.						X			HIGLAS	
5986.13.3	Carriers shall evaluate receivable and determine over/under payments, calculate interests and any refunds due based on data on the tracking file.				X		X			HIGLAS	
5986.13.4	Carriers shall adjust the receivable and take appropriate action and update the tracking file.				X		X			HIGLAS	
5986.13.5	Contractor shall resume with collection activities based	X			X						

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M M A C	F I	C A R I E R	R H I	Shared-System Maintainers				OTHER
							F I S S	M C S	V M S	C W F	
	on data on the tracking file.										
5986.14	<b>Level 2 Contractor Reconsideration Decision</b>  Contractor shall enter decision, dollar amounts and related dates in the tracking file.	X			X						
5986.14.1	Contractors shall send additional demand letters to be sent as necessary based on data on the tracking file.	X			X						HIGLAS
5986.14.2	Recoupment shall automatically resume for affirmed or partially favorable decisions in 30 days no longer than 45 days based on data on the tracking file with no regard to ALJ submitted appeal.							X			HIGLAS
5986.14.3	Contractors shall evaluate receivable and determine over/under payment, calculate interest and any refund due based on data on the tracking file.	X			X						HIGLAS
5986.14.4	Contractors adjust the receivable and take appropriate action and update the tracking file.	X			X						HIGLAS
5986.14.5	Contractor shall resume with collection activities based on data on the tracking file.	X			X						
5986.15	<b>Level 3 ALJ and higher levels</b>  Contractor shall enter decision, dollar amounts and related dates in the tracking file.	X			X						
5986.15.1	Contractors shall evaluate receivable and determine over/under payment, calculate interest and any refund due based on data on the 935 tracking file.  Note: 935 interest calculations are used.	X			X						HIGLAS
5986.15.2	Contractors shall adjust the receivable and take appropriate action and update the tracking file.	X			X			X			HIGLAS
5986.15.3	Contractor shall resume with collection activities based on data on the tracking file.	X			X						
5986.16	System shall set up individual AR's for all 935 adjustments to make certain that no recoupment is made on claims in appeal status on the 1 <sup>st</sup> and 2 <sup>nd</sup> level and also that all other debts not in appeal status will continue to be placed on suspense or on withhold.	X			X			X			HIGLAS
5986.16.1	Contractor shall continue to collect other debts owed by the provider, but may not withhold or place in suspense, any monies related to this debt, while in appeal status if an overpayment is appealed and recoupment stopped.	X			X						
5986.17	The system shall provide a balance of the debt owed minus all claims in appeal status at the case/demand							X			HIGLAS



#### IV. SUPPORTING INFORMATION

X-Ref Requirement Number	Recommendations or other supporting information:

#### V. CONTACTS

**Pre-Implementation Contact(s):**

Theresa S. Jones-Carter  
theresa.jones-carter@cms.hhs.gov  
410-786-7482

**Post-Implementation Contact(s):**

Theresa S. Jones-Carter  
theresa.jones-carter@cms.hhs.gov  
410-786-7482

#### VI. FUNDING

**Section A: For *Fiscal Intermediaries (FIs), Carriers, and Regional Home Health Carriers (RHHs)*:**

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

**Section B: 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

01/01/2009		MCS FINANCIAL REPORT										PAGE 01	
PERIOD 01/01/2009-01/31/2009												STATE 01	
H99R935B		935 ACCOUNT RECEIVABLE APPEALS STATUS											
		ALL LEVELS PENDING AND CLOSED											
PROV/NPI	A/R NBR	A/R AMT	APL DT	DMD LTR	F/P/U	QIC DT	DMD LTR	F/P/U	ALJ DT	DMD LTR	F/P/U	INT	
PEND/CLSE	MCCN	OFFSET	APL DEC	LAST ACT	AGE DEC	QIC DEC		AGE DEC	ALJ DEC		AGE DEC	ACCRD	
1451464659	9408317143806	\$444.55	10/18/08	11/18/08	Y	12/18/08	12/25/08	Y	01/01/09	01/15/09	N		
P	9008036405010	\$320.35	11/25/08	01/15/09	045	12/31/08		069	01/31/09		075	\$44.55	
1451464659	9408317143816	\$444.55	10/18/08	11/18/08	Y	12/18/08	12/25/08	Y	01/01/09	01/15/09	N		
C	9008036405011	\$320.35	11/25/08	01/15/09	045	12/31/08		069	01/31/09		075	\$367.88	
1451464659	9408317143826	\$444.55	10/18/08	11/18/08	Y	12/18/08	12/25/08	Y	01/01/09	01/15/09	N		
P	9008036405012	\$320.35	11/25/08	01/15/09	045	12/31/08		069	01/31/09		075	\$45.88	
1451464659	9408317143836	\$444.55	10/18/08	11/18/08	Y	12/18/08	12/25/08	Y	01/01/09	01/15/09	N		
C	9008036405013	\$320.35	11/25/08	01/15/09	045	12/31/08		069	01/31/09		075	\$54.65	
1451464659	9408317143846	\$444.55	10/18/08	11/18/08	Y	12/18/08	12/25/08	Y	01/01/09	01/15/09	N		
C	9008036405014	\$320.35	11/25/08	01/15/09	045	12/31/08		069	01/31/09		075	\$69.87	
<b>Totals</b>	<b>A/R AMT</b>	<b>OFFSET AMT</b>	<b>ACCRD INT.</b>										
	\$2600.00	\$1500.00	\$400.00										

DETAIL 935 ALL LEVEL ACCTS RECV FLAT FILE LAYOUT

SORT? BASED UPON TYPE OF APPEAL AND AGE?  
 WHEN DO THEY DROP OFF, WHEN THE BALANCE IS ZERO OR THEY ARE REFERRED?  
 PROVIDER #/NPI?

FIELD NAME	DESCRIPTION	VALUES
CARRIER NUMBER	CARRIER NUMBER	N=5
PERIOD	SPANNED MONTHLY DATE	DDMMCCYY- DDMMCCYY=01012009 - 01312009
PROV/NPI	LEGACY PROVIDER NUMBER/NPI	N=9
A/R NUMBER	A/R NUMBER	N = 13
A/R AMOUNT	OVERPAYMENT AMOUNT	N = 8
APPL DATE	THE APPEAL DATE FOR THE REDETERMINATION	DD/MM/YY = 01/01/09 AN = 8
DEMAND LETTER DATE	DEMAND LETTER DATE	DD/MM/YY = 01/01/09 AN = 8
F/P/U	THE DECISION MADE ON THE APPEAL	THE VALUES TO BE USED ARE STILL BEING RESEARCHED
QIC DT	THE DATE THE QIC CONTRACTOR RECEIVED THE APPEAL	DD/MM/YY = 01/01/09 AN = 8
DEMAND LETTER DATE	DEMAND LETTER DATE	DD/MM/YY = 01/01/09 AN = 8
F/P/U	THE DECISION MADE ON THE APPEAL	THE VALUES TO BE USED ARE STILL BEING RESEARCHED
ALJ DT	THE DATE THE APPEAL WAS RECEIVED BY THE ALJ	DD/MM/YY = 01/01/09 AN = 8
DEMAND LETTER DATE	DEMAND LETTER DATE	DD/MM/YY = 01/01/09 AN = 8
F/P/U	THE DECISION MADE ON THE APPEAL	THE VALUES TO BE USED ARE STILL BEING RESEARCHED
PEND/CLSE	THE STATUS OF THE APPEAL	A = 1 VALUES P = PENDING C = CLOSED
INT ACCRD	THE AMOUNT OF ACCURED INTERES	N = 8
OFFSET DATE		DD/MM/YY = 01/01/09 AN = 8
APPL DEC	THE DATE THE APPEAL DECISION WAS MADE.	DD/MM/YY = 01/01/09 AN = 8
LAST ACTIVITY DATE		DD/MM/YY = 01/01/09 AN = 8
AGE of DEC		N = 3
QIC DEC	THE DATE THE APPEAL	DD/MM/YY = 01/01/09

	DECISION WAS MADE BY THE QIC.	AN = 8
LAST ACTIVITY DATE		DD/MM/YY = 01/01/09 AN = 8
AGE of DEC		N = 3
ALJ DEC	THE DATE THE APPEAL DECISION WAS MADE BY THE ALJ.	DD/MM/YY = 01/01/09 AN = 8
LAST ACTIVITY DATE		DD/MM/YY = 01/01/09 AN = 8
AGE DEC		N = 3