

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-05 Medicare Secondary Payer	Centers for Medicare & Medicaid Services (CMS)
Transmittal 54	Date: JULY 21, 2006
	Change Request 5134

Subject: Revision to the contents of the Intent to Refer Demand Packages

I. SUMMARY OF CHANGES: Contractors shall no longer be required to send a copy or a system generated copy of the original demand letter with the intent to refer demand package. This CR implements a suggestion identified by contractors in order to cut costs and maximize efficiencies in the process.

New / Revised Material

Effective Date: October 1, 2006

Implementation Date: October 2, 2006

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

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

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

R/N/D	Chapter / Section / Subsection / Title
R	7/60.4.1-Issuance of the "Intent to Refer" to Treasury Letter
R	7/60.5.2-DCS Entry of Delinquent Debt
R	7/60.9.1-Exhibit 1-DCIA "Intent to Refer" (ITR) to Treasury Letter

III. FUNDING:

No additional funding will be provided by CMS; Contractor activities are to be carried out within their FY 2006

IV. ATTACHMENTS:

Business Requirements

Manual Instruction

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

Attachment - Business Requirements

Pub. 100-05	Transmittal: 54	Date: July 21, 2006	Change Request 5134
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SUBJECT: Revision to the contents of the Intent to Refer Demand Packages

I. GENERAL INFORMATION

A. Background: This change request revises past instructions contained in Transmittal 47 regarding the contents of the Intent to Refer Demand Packages. Specifically, contractors shall no longer be required to send a copy or a system generated copy of the original demand letter with the intent to refer demand package. This change request addresses and implements a cost reduction identified by contractors.

B. Policy: N/A

II. BUSINESS REQUIREMENTS

"Shall" denotes a mandatory requirement
"Should" denotes an optional requirement

Requirement Number	Requirements	Responsibility ("X" indicates the columns that apply)								
		F I	R H I	C a r r i e r	D M E R C	Shared System Maintainers				Other – HIGLAS
						F I S S	M C S	V M S	C W F	
5134.1	Contractors shall no longer be required to send a copy or a system generated copy of the original demand letter with the intent to refer demand package. (GHP and Non-GHP debt)	X	X	X	X	X	X	X	X	
5134.2	Contractors shall continue to attach, to each intent to refer demand package, a copy of the payment summary form and/or claims detail from the original demand letter properly annotated showing payments and/or valid documented defenses. This annotation shall reflect a proper accounting of all services/portion of the debt still owed Medicare. (GHP and Non-GHP debt).	X	X	X	X	X	X	X	X	
5134.3	Contractors shall report the following information outlined below to the Centers for Medicare & Medicaid Services- Central Office (CMS-CO) via e-mail. The requested information shall be sent to Jeff Hinson from	X	X	X	X					

Medicare Secondary Payer (MSP) Manual

Chapter 7 - Contractor MSP Recovery Rules

60.4.1 – Issuance of the “Intent to Refer” (*ITR*) to Treasury Letter

(Rev. 54, Issued: 07-21-06; Effective: 10-01-06; Implementation: 10-02-06)

Once contractors have identified and validated all eligible delinquent debts having a balance remaining, they shall send an ITR to Treasury letter with all appropriate attachments to the current debtor or joint and several debtor combination (See section 60.2 for current debtor definition.) Contractors shall send ITR letters (See section 60.9.1) via certified mail, return receipt requested, to the “current debtor” or “joint and several debtor combination.” (See section 60.2)

Use of the ITR letter is mandatory (including *the payment summary form and/or claims detail from the original demand letter properly annotated showing payments and/or valid documented defenses*). Contractors shall generate the ITR letter without standard system changes. For most contractors, this would be a PC-based generated document.

In the case of a GHP debt the contractor shall:

- Send the “intent to refer” letter to the employer;
- Provide a courtesy copy to the employer’s insurer/TPA. (See section 10.9);
- *Enclose a copy of the payment summary form and/or claims detail with a proper accounting of all services/portion of the debt still owed Medicare; and*

***NOTE:** Do not send a copy of the original demand letter.*

- Enclose a copy of attachment 1E, which contains the most commonly posed defenses and how the debtor may support the defense. (This listing is not inclusive of all defenses that may be raised.)

In the case of a Jointly and Severally Liable Debt within HIGLAS, the contractor shall:

- Send the “intent to refer” letter, inclusive of required attachments, to both joint and several debtors, if funds are still owing by both entities;
- *Enclose a copy of the payment summary form and/or claims detail with a proper accounting of all services/portion of the debt still owed Medicare by each of the joint and several debtors;*

***NOTE:** Do not send a copy of the original demand letter.*

HIGLAS NOTE: All contractors using HIGLAS system will have the ITR letter generated via the HIGLAS, *along with the payment summary form.*

On Data Match debts recorded on the Mistaken Payment Recovery Tracking System (MPaRTS), Medicare contractors shall update the debts status code with an “IL” no later than one business day after the ITR letter is sent. Contractors on ReMAS and HIGLAS for GHP debts shall not update MPaRTS on newly identified ReMAS GHP cases or actions. Contractors having had active Data Match ARs converted into HIGLAS shall still be responsible for updating MPaRTS with all required status codes until closure of the case.

NOTE: When the ITR letter is issued and the amount of the debt has been previously reduced from the original demand letter, contractors shall appropriately annotate the *payment summary form and/or claims detail.* The debtor must be able to understand the figures referenced in the ITR letter. Consequently, screen prints or other annotations to the case file are insufficient.

For liability, no-fault, and worker’s compensation cases, contractor shall:

- Send an ITR to the current debtor. Address the ITR letter to the beneficiary when the beneficiary is the debtor, with a copy to the beneficiary’s attorney or other representative (if applicable). (See section 60.2 for debtor definition);
- *Enclose a copy of the payment summary form and/or claims detail with a proper accounting of all services/portion of the debt still owed Medicare;*

NOTE: Do not send a copy of the original demand letter.

- Send the ITR letter directly to the no fault insurer with a copy to the beneficiary, when the no fault insurer is the actual debtor; and
- Send the ITR letter directly to the workers’ compensation carrier and a copy to the beneficiary, when the workers’ compensation carrier is the debtor.

*Regardless of the identity of the debtor, contractors shall attach to each ITR letter a copy of the payment summary form and/or claims detail with a proper accounting of all services/portion of the debt still owed Medicare. As stated in section 60.3.1; once a single debt for a particular debtor is selected, all debt for that debtor that do not fall under a specific exclusion may be selected and referred. Contractors shall issue a separate ITR letter for each debt, as well as an instructional cover sheet **for each package** of ITR letters when multiple ITR letters are sent to the same debtor at the same time. (See section 60.9.1.1 for the instructional cover sheet). Contractors shall generate this sheet without shared system changes. For most Medicare contractors, this would mean a PC-based generated document. Multiple debts may **not** be aggregated or otherwise combined in a single ITR letter. The ITR letters shall be debt specific. Input into the DCS shall also be debt specific.*

NOTE: Contractors shall issue an ITR letter to allow the debtor to respond in the required timeframe contained in the letter and still, if necessary, refer the debt prior to or by the time it reaches 180 days delinquency.

60.5.2 – DCS Entry of Delinquent Debt

(Rev. 54, Issued: 07-21-06; Effective: 10-01-06; Implementation: 10-02-06)

Contractors shall individually enter debts eligible for referral to Treasury for cross-servicing for which correspondence has been received and responded into the DCS, if appropriate. Contractors shall complete DCS entry and other system updates within 10 calendar days after correspondence is worked and/or checks posted (this includes MPaRTS, HIGLAS, etc.). The status code on MPaRTS when the debt is referred to the PSC is “PS.”

Generally, contractors have *30* calendar days to respond to ITR-generated correspondence barring instructions to the contrary. Some examples of instructions to the contrary are: 1) Contractors shall apply checks to a debt within 20 calendar days of receipt and 2) See Section 60.6.1 for timeframes specific to a contractor’s response to a Treasury Action Form (TAF).

NOTE: Contractors shall manage workloads in such a way to afford the debtor(s) appropriate time to respond and refer eligible delinquent debt to Treasury for cross-servicing on or before it becomes 180 days’ delinquent.

Contractors on HIGLAS shall no longer be required to update DCS with the initial referral information. HIGLAS will provide a listing of all debts eligible for referral to Treasury for cross-servicing. HIGLAS users shall update the case status to allow HIGLAS to send all appropriate debts to the DCS system for transmission to the PSC systematically. Some fields in DCS will require manual entry. For example: Contractors shall change SA code from COR to IND if a debtor is an individual. Contractors shall review the DCS report before transmitting to DCS. Debts less than \$100 with no TIN shall be excluded, at the time of review, from referral. Contractors shall follow instructions in section 60 regarding debts less than \$100 with no TIN.

Once the debt has been entered into the DCS or successfully transmitted to the PSC, all contractors shall forward a copy of the ITR letter with all attachments and/or enclosures, to the Treasury in Homewood, Alabama within 7 calendar days from the date of DCS entry. *When sending cases to Treasury, Contractors need to send a complete copy of the case file.*

If a Medicare contractor receives a partial collection (through offset or check) and/or a valid documented defense for part of the debt prior to referral to Treasury, it reduces the debt (both principal and interest) accordingly **before** entering the remaining debt into the DCS. On the Comments Screen of the DCS, the Medicare contractor shall enter that a collection occurred and/or a valid documented defense was received; from whom; how much the debt balance was at the time of the ITR letter; the amount of any collection; and

the resulting balance being referred. The contractor shall annotate the balance to show principal amount, interest amount, and total amount.

60.9.1 - Exhibit 1 - DCIA “Intent to Refer” (ITR) to Treasury Letter

(Rev. 54, Issued: 07-21-06; Effective: 10-01-06; Implementation: 10-02-06)

NOTE: DCIA Joint and Several ITR letters will be generated out of HIGLAS. The language below is very similar to the HIGLAS-generated language with a few modifications on the text to identify both debtors as addressees and both entities having joint and several liability for the repayment of the outstanding debt.

[Insert: Date]

[Insert: Debtor Name

Debtor Address

Debtor City/State/Zip]

Past-due debt owed CMS as of **[insert:date of “intent to refer” letter/this letter] :**
[\$[insert: total principal and interest]

Date debt became past-due: **[insert:the 61st day after demand letter date]**

Date of Demand Letter previously sent: **[insert: date; Contractors, remember that this is the date of the demand to the debtor receiving this “intent to refer” letter.]**

Debt identification numbers: **[insert: Contractor number plus contractor case ID number for all MSP other than DM; contractor number plus MPaRTS Report ID number for DM]**

Taxpayer Identification Number (TIN): **[insert: EIN (or SSN for beneficiary debtors or other non-corporate debtors)]**

Beneficiary’s Name: **[insert]**

Beneficiary’s HIC#: **[insert]**

[insert for liability, no-fault, workers’ compensation “intent to refer” - Date of Accident/Incident: (insert date)]

**NOTICE OF INTENT TO REFER DEBT TO THE DEPARTMENT OF TREASURY
OR A DEPARTMENT OF TREASURY DESIGNATED DEBT COLLECTION
CENTER FOR CROSS-SERVICING AND OFFSET OF FEDERAL PAYMENTS**

(Note that it is possible that this letter is being sent to you by a Medicare contractor other than the one who issued the request(s) for repayment that is(are) attached to this letter. This situation would occur whenever one contractor has assumed responsibility for a particular workload from another contractor (usually because the initial contractor is leaving or has left the Medicare program).)

The Centers for Medicare & Medicaid Services (CMS) has determined that you are indebted to the Medicare program for the amount shown above and that this amount is delinquent. The amount shown includes principal and interest. This debt arose under the Medicare Secondary Payer (MSP) provisions of the Social Security Act. The CMS has the right to collect this debt through offset of any payments due to the debtor. In addition, the Debt Collection Improvement Act (DCIA) of 1996 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, including the Treasury Offset Program (TOP). Under TOP, delinquent federal debts are collected through offset from other Federal agency payments you may be entitled to, including the offset of your income tax refund through the referral of this debt to the Internal Revenue Service (IRS), and Federal benefit payments such as Social Security retirement or disability benefits. Treasury or a designated DCC uses various collection tools to collect the debts, including offset, demand letters, phone calls, referral to a private collection agency and/or referral to the Department of Justice or agency counsel for litigation.

The purpose of this notice is to inform you that your debt may be referred to a Treasury/designated DCC, under the provisions of the DCIA, Title 31 United States Code, Section 3711 to collect this debt. This referral will permit the Department of Treasury and/or a designated DCC to use the aforementioned means of collection as well as to permit administrative offset of payments you may be receiving from other federal agencies. During this 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.

Please read the following instructions carefully as they may assist you in resolving this matter prior to referral. Add: **[insert - Contractors, insert the following sentence for “intent to refer” letters to insurers, employers, third party administrators, GHPs, or other plan sponsors: Please note that in addition to the information set forth below, we are enclosing more detailed information on how to review this debt, and proper documentation requirements for asserting that the debt is not past due or legally enforceable.]**

Challenging the Indebtedness:

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. Additionally, 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. Please include a copy of this notice when corresponding with the agency regarding this matter. You must submit any evidence that the debt is not owed or legally enforceable within 60 days of the date of this letter. We will notify you within 30 days of receipt of the information of our determination as to whether the debt is still past due and legally enforceable. Failure to present any evidence will result in the automatic referral of the debt to the Department of Treasury/a designated DCC for cross-servicing/offset actions.

Your debt will not be referred for further collection action if you make payment in full. Please be advised that payment of principal only is not considered payment in full and will not satisfy this debt. By law, partial payments are applied to interest first and then to principal.

The past-due debt owed to CMS as of **[insert: date of “intent to refer”/this letter]**, including interest accrued through **[insert: date of last day of the current interest period]**, is **[\$]**. **[Insert: use (A) for debts established before 10/01/04; use (B) for debts established on or after 10/01/04; (A) By regulation, interest is due and payable for each 30-day period as of the first day of that 30-day period; (B) By regulation, interest is due and payable for each full 30-day period that the debt is not fully liquidated.]** Be advised that interest is accrued monthly and is added to the balance of the debt. If the debt remains outstanding after **[insert specific date: date of last day of the current interest period]**, the amount of the debt, including interest, will be **[insert dollar amount]**. If no payment is received by **[insert date: date of last day of the next interest period (30 days from date of the last day of the current interest period)]**, the amount of the debt including interest will be **[insert: dollar amount, including interest]**; and if no payment is received by **[insert date: date of the last day of the third interest period (60 days from the date of the last day of the current interest period)]**, the amount of the debt including interest will be **[insert: dollar amount, including interest]**. Please make your check or money order payable to Medicare, include a copy of this notice and forward both to the address below.

[insert & instructions: “interest only debt” – If the outstanding debt is interest only, that debt does not accrue additional interest. “Interest only” debts generally happen when the employer or insurer paid the provider/supplier after the date of the demand. In these situations, contractors must delete the preceding paragraph (that is, starting with “The past due debt owed....”) and insert the following paragraph in its place: Please be aware that if you paid the provider, physician, or other supplier for the claims at issue after Medicare issued its demand letter, you still owe any interest which accrued and was due at the time of the payment to the provider, physician, or other supplier. The past due debt of [insert: amount] owed to CMS is comprised entirely of interest. Please make your check or money order payable to Medicare, include a copy of this notice and forward both to the address below.]

[insert & instructions: beneficiary GHP-based debt - If the debtor is the beneficiary and the debt is GHP-based debt, CMS does not charge interest to the beneficiary. In these situations, the contractor must delete the standard paragraph which includes information about interest (that is starting with “The past due debt owed....”) and insert the following paragraph in its place: The past-due debt owed to CMS is [insert: amount of outstanding debt]. Please make your check or money order payable to Medicare, include a copy of this notice and forward both to the address below.

[insert: Name of Medicare Contractor - MSP Unit

Attention: Manager's Name

Address of Medicare Contractor]

Your check should also include the "debt identification numbers" as shown at the beginning of this letter in order to ensure that you receive proper credit for your payment.

If you cannot make the payment in full, you may be allowed to enter into an extended repayment agreement.

Bankruptcy Related Information: If you have filed for bankruptcy **and** an automatic stay of bankruptcy 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 in order to avoid referral.

Information for Individual Debtors Filing a Joint Federal Income Tax Return: TOP automatically refers debts to the IRS for offset. Your federal income tax return 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.

If you have questions concerning this debt, extended repayment plans, and/or relating to the submission of evidence, you may contact:

[insert: Name of Contractor's Contact Person

Telephone Number of Contact Person]

If you call, please be sure that you have this letter available so that you can readily provide us with the identification information provided at the beginning of the letter.

Sincerely,

[insert: Name

Title

Contractor's Name - MSP Unit]

Enclosures:

Claims Summary Detail and/or Payment Summary Form

[insert for GHP insurer, employer, third party administrator, GHP, or other plan sponsor debts only: Enclosure with supplemental information on resolving debts or 1E attachment]

[insert where the beneficiary is the debtor and is represented - cc: attorney or other representative]

