

# CMS Manual System

## Pub 100-06 Medicare Financial Management

Transmittal 75

Department of Health &  
Human Services

Center for Medicare and &  
Medicaid Services

Date: AUGUST 12, 2005

Change Request 3932

***NOTE: Transmittal 73, dated August 5, 2005 is rescinded and replaced with Transmittal 75, dated August 12, 2005. The Summary of Changes was modified to remove the Part A, 3<sup>rd</sup> demand letter requirement. All other information remains the same.***

**SUBJECT: New Thresholds for 2nd Demand Letter for Physicians/Suppliers**

**I. SUMMARY OF CHANGES:** CMS currently utilizes a threshold of \$50 when issuing a 2nd demand letter to physicians/suppliers. However, CMS must send an intent to refer letter for referral to the Department of Treasury for all debts greater than or equal to \$25. This created an inconsistency in the policies and the number of demand letters providers received. To address the inconsistency, this change request changes the threshold for issuing a 2nd demand letter to \$10. Overpayments greater than or equal to \$10 will now receive a 2nd demand letter. If the debt is eligible for referral to the Department of Treasury and if the overpayment is greater than \$25 it shall receive an intent to refer letter following existing policies.

**NEW/REVISED MATERIAL :**

**EFFECTIVE DATE : \*September 6, 2005**

**IMPLEMENTATION DATE : September 6, 2005**

*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	4/90/90.2/Part B Overpayment Demand Letters to Physicians/Suppliers

**III. FUNDING:**

No additional funding will be provided by CMS; Contractor activities are to be carried out within their FY 2005 operating budgets.

**IV. ATTACHMENTS:**

Business Requirements

Manual Instruction

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

# Attachment - Business Requirements

Pub. 100-06	Transmittal: 75	Date: August 12, 2005	Change Request 3932
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*NOTE: Transmittal 73, dated August 5, 2005 is rescinded and replaced with Transmittal 75, dated August 12, 2005. The policy section on the business requirements was modified to remove the Part A, 3<sup>rd</sup> demand letter requirement. All other information remains the same.*

**SUBJECT: New Thresholds for 2<sup>nd</sup> Demand Letter for Physicians/Suppliers**

## I. GENERAL INFORMATION

**A. Background:** CMS currently utilizes a threshold of \$50 when issuing a 2<sup>nd</sup> demand letter to physicians/suppliers. However, CMS must send an intent to refer letter for referral to the Department of Treasury for all debts greater than or equal to \$25. This created an inconsistency in the policies and the number of demand letters providers received.

**B. Policy:** To address the inconsistency, this change request changes the threshold for issuing a 2<sup>nd</sup> demand letter to \$10. Overpayments greater than or equal to \$10 will now receive a 2<sup>nd</sup> demand letter. If the debt is eligible for referral to the Department of Treasury and if the overpayment is greater than \$25 it shall receive an intent to refer letter following existing policies.

## 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
						F I S S	M C S	V M S	C W F	
3932.1	The standard system shall issue a second demand/follow-up letter for all overpayments greater than or equal to \$10.						X	X		

## III. PROVIDER EDUCATION

Requirement Number	Requirements	Responsibility ("X" indicates the columns that apply)
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		F I	R H H I	C a r r i e r	D M E R C	Shared System Maintainers				Other
						F I S S	M C S	V M S	C W F	
	None.									

**IV. SUPPORTING INFORMATION AND POSSIBLE DESIGN CONSIDERATIONS**

**A. Other Instructions: N/A**

X-Ref Requirement #	Instructions

**B. Design Considerations: N/A**

X-Ref Requirement #	Recommendation for Medicare System Requirements

**C. Interfaces: N/A**

**D. Contractor Financial Reporting /Workload Impact: N/A**

**E. Dependencies: N/A**

**F. Testing Considerations: N/A**

**V. SCHEDULE, CONTACTS, AND FUNDING**

<p><b>Effective Date:</b> * September 6, 2005</p> <p><b>Implementation Date:</b> September 6, 2005</p> <p><b>Pre-Implementation Contact(s):</b> Stacey Stinson, <a href="mailto:Stacey.Stinson@cms.hhs.gov">Stacey.Stinson@cms.hhs.gov</a>, (410) 786-9513</p> <p><b>Post-Implementation Contact(s):</b> Stacey Stinson, <a href="mailto:Stacey.Stinson@cms.hhs.gov">Stacey.Stinson@cms.hhs.gov</a>, (410) 786-9513</p>	<p><b>No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2005 operating budgets.</b></p>
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## **90.2- Part B Overpayment Demand Letters to Physicians/Suppliers**

*(Rev.75, Issued: 08-12-05, Effective: 09-06-05, Implementation: 09-06-05)*

When a physician/supplier is liable for an overpayment of \$10 or more, the carrier shall attempt recovery through the following procedures.

It shall recover an overpayment made to a physician/supplier as an individual or to a professional corporation (following the procedures described below) only from the party to whom the overpayment was made. It shall make no attempt to recover an overpayment made to an individual physician/supplier from a professional corporation with which they may be associated as an employee or stockholder. Conversely, it shall not attempt recovery from an individual physician/supplier where the overpayment was made to a professional corporation with which they are, or were, associated.

### **Overpayment Amount Is At Least \$10**

When the carrier determines an overpayment it shall issue a demand letter that requests the physician/supplier to pay the debt in full within 30 days, or the amount owed and any assessed interest will be collected by offset.

### **Overpayment Demand Letter**

The purpose of an overpayment demand letter is to notify the physician/supplier of the existence and amount of an overpayment, and to request repayment. The demand letter shall be written in such a manner as to fully explain the nature of the overpayment and the amount determined. Each demand letter shall be:

- Sent to the physician/supplier by first class mail; and
- Determined within forty-five (45) calendar days of the discovery of the overpayment and mailed within seven (7) calendar days of the creation of the accounts receivable and generation of the demand letter. Longer amounts of time in between discovery and determination must be supported by additional documentation. In the case of the second request, the letter must be mailed within 45 days but no earlier than 30 days after the date of the first demand letter.

### **Content of Demand Letters**

- Sent to the physician/supplier.
- For a first request, mail within seven (7) calendar days of determination of the overpayment.
- Each demand letter is an explanation of the nature of the overpayment, how it was established, and the amount determined.
- The demand letter shall offer the physician/supplier the opportunity to apply for an extended repayment plan if immediate repayment of the debt will cause financial hardship. An extended repayment plan must be approved using the criteria set forth in Chapter 4, §50. Any approved repayment plan would run from the date of the FIRST REQUEST overpayment demand letter.

- The demand letter constitutes a request to the physician/supplier to refund the overpaid amount.
- The demand letter informs physicians/suppliers that the carrier will recover the overpayment through the recoupment of current payments due or from future claims submitted unless the carrier receives repayment or the physician/supplier provides a statement within 15 days of the date of the letter of why this action should not take place. The demand letter shall also inform physicians/suppliers that this recoupment will begin on the 41<sup>st</sup> day from the date of the letter.
- The demand letter informs physicians/suppliers that interest will accrue on the overpayment if payment in full is not received by the 31<sup>st</sup> day from the date of the letter. The demand letter shall also inform physicians/suppliers of the applicable interest rate that will accrue if payment in full is not received by the 31<sup>st</sup> day from the date of the letter.
- The demand letter informs physicians/suppliers that they have the right to request a review or hearing, as appropriate, if they believe the determination is not correct. (See Medicare Claims Processing, Chapter 29, Appeals of Claims Decisions.) A review is available for disputed overpayments of any amount, and a carrier fair hearing is available once the review has been conducted if the amount in dispute is at least \$100.
- Bankrupt providers. All correspondence, including demand letters, addressed to a bankrupt provider must be submitted to the Regional Office who has the lead in the bankruptcy proceedings for approval prior to release.

The carrier shall refer to Exhibits I through VI for the standard formats for each demand and voluntary refund letters to be used in various overpayment situations.

### **Recovery by Recoupment**

If, within 15 days of the date of the initial demand letter, the physician/supplier submits a statement and/or evidence as to why offset should not be effectuated, the carrier shall promptly evaluate the material. This is different from a request for appeal (see subparagraph F) in that you are deciding only whether there is a basis to not effectuate an offset. Any correspondence dealing with the basis of the overpayment does not affect your decision concerning offset. If the carrier determines that offset shall begin, it shall notify the physician/supplier in writing of its determination. It shall give specific reasons for its decision.

If no such statement is received or an extended repayment plan has not been requested, the carrier shall initiate recovery by recoupment 40 days after the date of the initial demand letter (day 41), unless the physician/supplier refunds the overpaid amount in full. The carrier shall apply any amounts payable to the physician/supplier by reason of assignment on behalf of **any** beneficiary to recoup the overpayment. It shall apply any amount recouped first to the accrued interest and then to the principal.

If it is not possible to make an immediate recoupment, the carrier shall annotate the physician's account so that the overpayment can be recouped from future Medicare benefits payable. When recoupment is used, the carrier sends the regular Medicare

Summary Notice (MSN) to the beneficiary. However, it includes with the physician's/supplier's MSN an explanation that the benefits (or a specified amount of the benefit) are being applied to the overpayment and that the physician may not request the beneficiary to pay the amount applied to the overpayment.

The carrier shall discontinue recoupment only when the overpayment, plus all accrued interest, is recovered, it is determined on appeal that the physician/supplier was not overpaid or an acceptable extended repayment plan request is received (See Chapter 4, §50). After a favorable appeal decision, the carrier shall refund any excess amount withheld through recoupment. Also, it shall refund any interest that was collected.

### **Follow-up Request**

If the initial demand letter for an overpayment of \$10 or more brings no response within 30 days, the carrier shall send a follow-up letter (enclose a copy of the initial letter to the physician/supplier) within 45 days. If any portion of the overpayment has been recovered, it shall include a statement of that amount.

### **Physician Appeals Within 30 Days of Notification of the Intent to Recoup**

If, within 30 days after the date of the initial demand letter informing the physician/supplier of the intention to recoup, the physician/supplier submits a request for a review or hearing or otherwise protests the recovery, the carrier shall make every effort to conclude the appeal procedure expediently. However, it shall begin recoupment 40 days after the initial demand, if payment has not been made, regardless of the status of any appeal request. (See subparagraph D.)

### **Demand Letter to Physician Returned as Undeliverable**

Where a refund letter is returned as undeliverable, the carrier shall attempt to locate the physician/supplier using such sources as telephone directories, city directories, postmasters, driver's license records, automobile title records, State and local medical societies, the American Medical Association or its own Medicare beneficiary records. (See Chapter 4, §80.)

### **Direct Contact with Physician**

If attempted recoupment of the overpayment is unsuccessful for 30 days, the carrier shall contact the physician/supplier by telephone. (See Chapter 4, §80.)

### **Third Demand Letter**

If the overpayment has not been recouped and the debt is eligible for referral to the Department of Treasury an intent to refer letter shall be sent once the overpayment becomes 90 days delinquent. (See CR 1683 or Chapter 4, §70)