CMS Manual System	**Department of Health & Human Services (DHHS)**
Pub 100-06 Medicare Financial Management	**Centers for Medicare & Medicaid Services (CMS)**
Transmittal 12262	**Date: September 28, 2023**
	Change Request 13358

SUBJECT: Revisions and Deletions to the Internet Only Manual (IOM), Publication 100-06, Chapter 4, Debt Collection Related to Extended Repayment Schedules (ERS) and Debt Management

I. SUMMARY OF CHANGES: The purpose of this Change Request (CR) is to make changes to the ERS process that enhances debt management and procedure efficiency. It also updates policy language and standard practice.

EFFECTIVE DATE: October 30, 2023
**Unless otherwise specified, the effective date is the date of service.*

IMPLEMENTATION DATE: October 30, 2023
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	4/30.2/Rates of Interest
R	4/30.4/Procedures for Applying Interest During Overpayment Recoupment
R	4/40.1/Recoupment by Withholding Payments
R	4/50/Establishing an Extended Repayment Schedule (ERS)
R	4/50.1/Extended Repayment Schedule (ERS) Required Documentation --Physician is a Sole Proprietor
R	4/50.2/Extended Repayment Schedule (ERS) Required Documentation– Provider is an Entity Other Than a Sole Proprietor
R	4/50.3/Extended Repayment Schedule (ERS) Approval Process
R	4/50.4/Sending the Extended Repayment Schedule (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: 12262	Date: September 28, 2023	Change Request: 13358

SUBJECT: Revisions and Deletions to the Internet Only Manual (IOM), Publication 100-06, Chapter 4, Debt Collection Related to Extended Repayment Schedules (ERS) and Debt Management

EFFECTIVE DATE: October 30, 2023

**Unless otherwise specified, the effective date is the date of service.*
IMPLEMENTATION DATE: October 30, 2023

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 ERS at any time while the overpayment is outstanding. Contractors and/or Regional Office (RO) staff shall review the request to determine if extending a repayment schedule is justified.

B. Policy: This change clarifies, updates, and includes new instructions to chapter 4 and includes changes to the ERS process that enhances management and procedure efficiency.

II. BUSINESS REQUIREMENTS TABLE

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

Number	Requirement	Responsibility								
		A/B MAC			DME	Shared-System Maintainers				Other
		A	B	HHH	MAC	FISS	MCS	VMS	CWF	
13358.1	MACs shall acknowledge the default timeframe for when a provider misses one payment instead of two payments per regulation 42 CFR section 401.607.	X	X	X	X					
13358.2	MACs shall recognize the replacement of FI/Fiscal Intermediary and Carrier with MAC or Contractor throughout the IOM updates.	X	X	X	X					
13358.3	MACs shall ensure that good faith payments are not considered monthly installment payments once the MAC approves an ERS.	X	X	X	X					
13358.3.1	These good faith payments shall be applied to the balance of the overpayment to decrease the balance, but not as ERS installment payments.	X	X	X	X					

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
13358.4	MACs shall no longer use the term "first payment" or "installment payment" when a provider submits a payment prior to an ERS approval. The correct term shall be a “good faith payment”.	X	X	X	X					
13358.5	MACs shall now increase the timeframe from 'up to 12 months' to 'up to 15 months' ERS, when a provider is required to submit financials.	X	X	X	X					
13358.6	MACs shall change ERS review and decision timeframes to calendar days and not business days.	X	X	X	X					
13358.7	MACs shall approve, counter, or deny all ERS requests up to 60 months instead of 35 months.	X	X	X	X					
13358.7.1	MACs shall only refer to RO, if needed.	X	X	X	X					
13358.8	MACs shall discontinue quarterly reporting to CMS.	X	X	X	X					
13358.8.1	MACs shall now pull ERS data through Healthcare Integrated General Ledger Accounting System each day and shall provide updates to CMS upon request.	X	X	X	X					
13358.9	MACs should not rely solely on the fraud report/fraud system checks for which they have access, as it may not be up to date.	X	X	X	X					
13358.9.1	MACs should contact their Center for Program Integrity representative to verify any fraud concerns.	X	X	X	X					

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			DME MAC	CEDI
		A	B	HHH		
	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:

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

V. CONTACTS

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. 12262; Issued: 09-28-23)

30.2 - Rates of Interest

(Rev. 12262; Issued:09-28-23; Effective:10-30-23; Implementation:10-30-23)

The interest rates on overpayments and underpayments is determined in accordance with regulations promulgated by the Secretary of the Treasury and is the higher of the private consumer rate or the current value of funds rate prevailing on the date of final determination. Interest accrues from the date of the initial request for refund and is assessed for each 30-day period, or portion thereof, that payment is delayed after the initial refund request.

The private consumer rate, historically higher than the current value of funds rate, is subject to quarterly revision. The Department of the Treasury certifies the revised rate to the Department of Health and Human Services on a quarterly basis. Medicare contractors will be receiving subsequent quarterly updates of the new interest rate for Medicare overpayments and underpayments through a recurring update notification. Interest assessed for both late payments and installment payments is computed as simple interest using a 360-day year. Simple interest is interest that is paid on the original principal balance and after each payment interest accrues on the remaining unpaid principal balance. Interest charges will not be prorated on a daily basis for overdue payments received during the month (e.g., 10, 15, or 20 days late). Interest is assessed for the full 30-day period. The interest rate on each of the final determinations will be the rate in effect on the date the determination is made.

If periodic but unscheduled payments or credits are made in different calendar quarters, the quarterly rate prevailing at the time of the final determination is charged and remains the same until the debt is liquidated. Interest must be recalculated based on the outstanding balance at 30-day intervals from the date of final determination.

The interest rate charged on overpayments repaid through an approved extended repayment schedule is the rate that is in effect for the quarter in which the determination was made. The rate remains constant unless the provider defaults (i.e., misses *one* consecutive installment payments) on an extended repayment agreement. When the provider defaults on such an agreement, interest on the balance of the debt may be changed to the prevailing rate in effect on the date of the default if that rate is higher than the rate specified in the agreement.

30.4 - Procedures for Applying Interest During Overpayment Recoupment

(Rev. 12262; Issued:09-28-23; Effective:10-30-23; Implementation:10-30-23)

A. General

If a provider is unable to satisfy the overpayment within 30 days from the date of final determination and demand for repayment (§30.1), interest accrues on the unpaid principal balance and is due and payable for

each full 30-day period that an overpayment balance is outstanding. The contractor first applies any payments received to the accrued interest charges and then to the overpayment principal. If the provider has more than one overpayment outstanding and a payment is received, the contractor credits the payment to the oldest overpayment first, unless the provider designates otherwise.

B. Recoupment Through Installment Payments

A provider is expected to repay any overpayment as quickly as possible. If a provider cannot refund the total amount of the overpayment within 30 days after receiving the first demand letter, it should immediately request an extended repayment plan. (See Chapter 4, §50 for extended repayment procedures.)

The interest rate to assess on overpayments repaid through an approved extended repayment plan is the rate in effect for the quarter in which the final determination is issued to the provider.

Interest rates remain constant based upon the initial rate assessed unless the provider defaults, i.e., **misses *an* installment payment** of an extended repayment agreement. Interest on the principal balance of the debt may be changed to the current prevailing rate if (a) the provider *has defaulted* on its installment payments and (b) the current prevailing rate in effect on the date the installment becomes overdue is higher than the rate specified in the agreement. (For FISS and APASS users only.) Each payment is applied first to accrued interest and then to principal. After each payment interest will accrue on the remaining unpaid principal balance.

C. Proof of Receipt

The U.S. Postal Service postmark date is controlling in determining the timely receipt of a cost report or payment of an overpayment. Therefore, the contractor should retain all envelopes in order to have proof of receipt. If a due date for any payment falls on a holiday or a weekend, the next working day is considered the official due date for the purpose of applying accrued interest. (FISS and APASS users only.) CMS does not accept dates imprinted by a provider's meter postage machine as confirmation of the postmark date. In these cases, the *MAC* should use the date the cost report or payment was received, and date stamped. If a provider utilizes a commercial delivery service the date constituting a timely receipt is the date the commercial delivery service signs and accepts the package. The date the cost report or payment is received by the *MAC* controls if any other mailing service was used.

40.1 – Recoupment by Withholding Payments

(Rev. 12262; Issued:09-28-23; Effective:10-30-23; Implementation:10-30-23)

A. General

In accordance with regulations (42 CFR §§405.371-372), payments determined to be payable to providers can be withheld to protect the Medicare program against financial loss if the intermediary has determined that the provider to whom payments are to be made has been overpaid.

The withholding of interim payments may be partial (for example, a percentage of payments withheld or a set amount) or complete.

B. Requirements for Withhold

Comply with the following conditions to withhold interim payments:

- Notify the provider in writing through the demand letter or in other correspondence of your intention to withhold payments, in whole or in part; and

- Give the provider an opportunity to submit a statement (including any evidence) as to why the withhold shall not be put into effect. Inform the provider it has l5 days following the date of the notification to submit such a statement.

C. Cost Report Overpayments Percentage of Withhold

Some percentage of withhold shall begin 15 days after the date of the first demand letter (day 16) if the overpayment has not yet been liquidated or an extended repayment plan has not been requested. The matrix below shall be utilized to determine the percentage of withhold for an overpayment determined from a cost report that has been filed (as filed cost report, tentative settlement, or final settlement), a PIP review, or an interim rate review. See Chapter 3, §30.1 when a cost report remains unfiled.

Day 16	**No word from provider**	**100 % withhold**
Day 16	Provider has submitted Extended Repayment Schedule (*ERS)* application	No withhold *if* provider submitted a *good faith* payment along with *ERS* application. *Good faith p*ayments must continue on a monthly basis until provider receives written approval or denial of the *ERS* request. If *good faith* payment is not received with the application request, withhold shall be initiated at 30%.
Day 16	Provider has submitted *ERS* application but it is incomplete	No withhold as long as provider submitted a first *good faith* payment along with *ERS* application. If *good faith* payment is not received with the application request, withhold shall be initiated at 30%. Once a completed application is submitted, *good faith* payments must continue on a monthly basis until provider receives written approval or denial of the *ERS* request. If completed information is not received within an allotted amount of time (rarely more than 30 days) withhold shall be initiated at 100%.
Day 16	Provider has said that it is planning to submit an *ERS* application	30% withhold- when *ERS* application is received, cease withhold if the first payment accompanies the application request; maintain 30% withhold if payment does not accompany application.
Day 30	**Still no word from provider**	***Withhold* at 100%.**
Day 30+	*ERS* application is being reviewed by RO or CO	No withhold as long as provider continues to submit appropriate *good faith* payments on a monthly basis under the terms of the application request. If provider did not submit a first *good faith* payment or does not submit subsequent payments, withhold shall be 30% *of payments* unless RO or CO gives alternative instructions.
Day 30	Provider said an *ERS* application was forthcoming but has not been received to date	Increase withhold to 100%. If provider calls with an acceptable reason for the delay, make a judgment call to leave at 30% until day 45 *or refer to RO for direction.*
Day 45+	**No *ERS* application and no payment by provider**	***Withhold at* 100%**

NOTE: A set amount of withhold may be proposed instead of a percentage. The amount shall not be less than the appropriate percentage unless specific instructions are received from RO or CO.

D. Physician/Supplier Overpayments- Withhold of Payments

Withhold of all payments shall begin 40 days (41st day) after sending the initial overpayment demand letter unless payment in full has been received or an *ERS* application has been received. If an *ERS* application has been received and is currently being reviewed by the *MAC* or CMS RO or CO and the first payment was sent in by the provider with the application, no withhold shall occur. If the first payment did not accompany the *ERS* application a 30% withhold shall be initiated.

NOTE: Additional Information for *MACs*

If extenuating circumstances exist and the *MAC* believe that a higher or lower percentage of withhold is necessary to protect the Medicare Trust Fund, the *MAC* shall contact the servicing regional office for guidance and/or approval. Some examples include knowledge that the provider may file bankruptcy, a history of non-payment of overpayments, or evidence that the withhold percentage would cause irreparable harm.
The payment submitted with the *ERS* application shall be one month's payment based on the amortization schedule submitted with the *ERS* application. The amortization schedule shall not exceed 60 months, shall include principal and interest and the minimum monthly payment shall not be less than 1/60th of the overpayment. If the provider requests an *ERS* in excess of 60 months the payment submitted shall be 1/60th of the overpayment. If the payment submitted is not 1/60th of the overpayment, the *MAC* shall contact the provider (in writing or a documented telephone call with the appropriate personnel at the provider's place of business) requesting additional funds. If the provider does not submit additional funds within 15 days of the date of the request, the *MAC* shall initiate a 30% withhold.

Until a final decision is made regarding the *ERS* the provider should submit monthly payments based on the amortization schedule. If the provider does not continue to submit monthly payments, the *MAC* shall contact the provider requesting the payment. If the provider does not submit the monthly payment within 15 days of the date of the request, the *MAC* shall initiate a 30% withhold.

E. Disposition of Withheld Funds

All funds withheld shall be applied towards the outstanding overpayment. The funds shall be applied to the outstanding interest first and then to the outstanding principal balance.

F. Duration of Withhold

The withhold shall remain in effect until:

- The overpayment is liquidated;
- You enter into an agreement with the provider for liquidation of the overpayment; or
- On the basis of subsequently acquired evidence, or otherwise, you determine that there is no overpayment.

50 - Establishing an Extended Repayment Schedule (ERS) - (formerly known as an Extended Repayment Plan (ERP))

(Rev. 12262; Issued:09-28-23; Effective:10-30-23; Implementation:10-30-23)

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 Administrative Contractor (MAC) may* be referred to as "Contractor."

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.

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.

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). *Good faith payments shall not be considered monthly payments for the MAC approved ERS, but instead, shall be applied to reduce the overall balance of the overpayment.*

This is what constitutes a complete ERS.

2. Contractors shall evaluate all providers' requests for an extended repayment schedule up to 60 months, *and* shall only approve/disapprove ERS requests up to *60* months.

3. Contractors should consider ERS requests for 6-*15* 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* -15 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. *When deemed appropriate,* contractors *may* refer ERS requests that need *additional* guidance to *the* Regional Office (RO), along with a recommendation.

5. The RO *will* evaluate ERS requests *as needed or requested by the contractor for further direction.* (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 *calendar* days of receipt of the complete request.

8. Providers *may* request for *an* ERS *under 16* month*s* 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 *16* months or longer.

10. The contractor 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)). *A* 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 *calendar* 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 *calendar* 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. 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.

5. *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 calendar day after the contractor's request, the contractor should close the request and resume normal collect activities.*

6. 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.

7. 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 *calendar* days.

8. Contractors shall ensure that requesting additional documentation will not unnecessarily extend the decision-making period.

9. If the contractor needs additional time to conduct the review, they shall work with their RO to determine a reasonable timeframe to complete.

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 – Extended Repayment Schedule (ERS) Required Documentation --Physician is a Sole Proprietor

(Rev. 12262; Issued:09-28-23; Effective:10-30-23; Implementation:10-30-23)

A. The contractor shall require that the provider (physician/sole proprietor) furnish the following for *Extended Repayment Schedule (*ERS*)* request of *15* 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. ***Good Faith*** **Payments** – The CMS requires the provider to submit the first *good faith* payment (per the proposed amortization schedule) *with the ERS application*, 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 *good faith payments* until the ERS review is completed.

B. The contractor shall require that the provider (physician/sole proprietor) furnish the following for an ERS request of *16* 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. ***Good Faith*** **Payments** – The CMS requires the provider to submit the first *good faith* payment (per the proposed amortization schedule), 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 good faith payments 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 – Extended Repayment Schedule (ERS) Required Documentation– Provider is an Entity Other Than a Sole Proprietor

(Rev. 12262; Issued:09-28-23; Effective:10-30-23; Implementation:10-30-23)

A. The contractor shall require that the provider (NOT a physician/sole proprietor) furnish the following for an Extended Repayment Schedule (ERS) request of *15* 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. ***Good Faith*** **Payments** – The CMS requires the provider to submit the first *good faith* payment (per the proposed amortization schedule), 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 *good faith payments* 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 of *16* 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. ***Good Faith*** **Payments** – The CMS requires the provider to submit the first *good faith* payment (per the proposed amortization schedule), 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 *good faith payments* 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 - Extended Repayment Schedule (ERS) Approval Process

(Rev. 12262; Issued:09-28-23; Effective:10-30-23; Implementation:10-30-23)

Contractors shall not approve any Extended Repayment Schedule (ERS) if any of the following apply:

1. When there is reason to suspect that the provider may:

   a) file for bankruptcy;
   b) cease to do business;
   c) discontinue participation in the program; or
   d) 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
   d) the first installment payment (per the proposed installment schedule).

15 months *or less* 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 *15 months or less*. 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 *15 months or less* is appropriate.

16 month*s or more* 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.
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 *approve, counter or deny the request* within 30 days receipt of the completed request.

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

a) notify the provider in writing, within 5 *calendar* 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 *calendar* days of making the decision; and
b) include the denial reason, in the notification.

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 procedures, at a recoupment rate of 100% of the provider's payments.

Disagrees: If a provider requests additional month(s) 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.

Requirements to be Completed Before Approval or Denial	*15 Months or Less*	*16 Months or More*
Received and Reviewed all required documentation	X	X
Received and Applied submitted payments while under review	X	X
Complete ERS Protocol (See Exhibit 1)		X
Analyzed Financial Statements		X
Reviewed last 12 months Claim History	X	X
Reviewed last 12 months Payment History	X	X
Reviewed status of Additional Outstanding Overpayments	X	X
Confirmed No Active Bankruptcy	X	X
Confirmed Enrollment Status is not– Terminated, Revoked, Suspended	X	X
Reviewed status of Outstanding Advance/Accelerated Payments	X	X
Part A- Reviewed status of Outstanding Cost Report Settlements	X	X
Confirmed No Outstanding Fraud Investigations *with CPI Staff*	X	X
Sent to RO/CO for opinion (if needed)	X	X

50.4 – Sending the Extended Repayment Schedule (ERS) Request to the Regional Office (RO)

(Rev. 12262; Issued:09-28-23; Effective:10-30-23; Implementation:10-30-23)

After the contractor has reviewed the provider's supporting documentation and determines that a referral *to the RO* is needed, 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 Extended Repayment Schedule (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) 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 *be paid by another method, such as payment by check*.

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

(Rev. 12262; Issued:09-28-23; Effective: 10-30-23; Implementation: 10-30-23)

MACs have access to the CMS HIGLAS ERS Activity dashboard/report in HIGLAS Business Intelligence (HBI) using the BI Update AR User Responsibility. This report has a comprehensive view of the ERS portfolio by each MAC jurisdiction. It also helps identify at risk ERS which are delinquent or in default status by showing risk criteria such as provider average billing and provider non-ERS debt balances. The data is refreshed daily each morning. MACs can view/search specific ERS data as well as export the record(s) as required. MACs shall continue to verify the Program Integrity checks in PECOS and with CPI staff, such as, Terminated/Revoked statuses, before approving an ERS request.

MACs shall provide ERS status updates to CMS upon request using this activity report.

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

(Rev. 12262; Issued:09-28-23; Effective:10-30-23; Implementation:10-30-23)

When approving/denying an Extended Repayment Schedule (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 a 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 *received* an ERS *request* prior to referral, the *contractor shall review and process the request first to determine eligibility. If the request is approved, the contractor shall establish the ERS and shall not refer the debt 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.