



## Medicare Overpayments



## What's Changed?

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We added information about using the Self-Referral Disclosure Protocol to report overpayments that violate the physician self-referral law (page 4).

Substantive content updates are in dark red.

An overpayment occurs when CMS pays a provider more than the amount due and payable according to existing laws and regulations. Identified overpayments are debts owed to the federal government. Laws and regulations require us to recover overpayments.

**Note:** [Coordination of Benefits & Recovery Overview](#) explains Medicare Secondary Payer overpayments when we aren't the patient's primary health insurance.

We may overpay because of:

- Incorrect coding
- Insufficient documentation
- Medical necessity errors
- Processing and administrative errors

We, along with our contractors, identify overpayments. Providers can also self-report overpayments.

## Self-Identified Overpayments

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Through reasonable diligence, a provider can identify any overpayment and calculate the amount. According to Section 1128J(d) of the [Social Security Act](#), a provider must report and return a self-identified overpayment to its Medicare Administrative Contractor (MAC) within:

- 60 days of identifying the overpayment
- 6 years of getting an overpayment, generally known as the “lookback period”
- A corresponding cost report due date, if applicable

## Overpayment Collection

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### Demand Letter

When a provider gets an overpayment of \$25 or more, its MAC initiates the overpayment recovery process by sending a demand letter requiring repayment.

A MAC demand letter includes this information:

- That we made an overpayment
- How we calculated the overpayment
- Name and MBI of the patient involved
- Dates and types of the services for which we overpaid
- How interest will accrue, and the interest rate (if the overpayment isn't fully repaid within 30 days)
- Extended repayment schedule (ERS)
- The recoupment process and options (for example, when recoupment starts, the ability to request immediate recoupment, the impact of filing an appeal on recoupment)
- Rebuttal rights (if applicable)
- Administrative appeal rights

- Instructions to the Medicaid State Agency to withhold the federal share of any Medicaid payments until it recoups the full amount owed to Medicare (if applicable)

When responding to an initial demand letter, you can:

- Make an immediate payment
- Request immediate recoupment
- Submit a rebuttal
- Appeal the overpayment by requesting a redetermination
- Request an ERS

If the postal service returns the MAC's initial demand letter as undeliverable, the MAC calls you within 10 business days of getting the undeliverable letter. Visit your [MAC's website](#) for more information.

## Payment Options

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For self-identified and reported overpayments, after a MAC processes a claim it sends an electronic remittance advice or a standard paper remit with final claim adjudication and payment information. If you discover an overpayment, you're responsible for returning it to your MAC. When returning the self-identified overpayment, explain what caused it.

If the overpayment is due to a violation of the physician self-referral law, report it through the [Self-Referral Disclosure Protocol](#).

For overpayments we or a MAC identify, you may request 1 of these repayment methods after you get a demand letter requiring repayment of an overpayment:

- **Immediate Recoupment:** You may request immediate recoupment for all current and future overpayments that occur, or make a one-time request for a specific overpayment. Unless you specify it as a one-time request, the immediate recoupment request applies to all current and future debts. Upon your request, the MAC recovers an overpayment by offsetting future payments to satisfy the overpayment amount. Generally, we classify written requests for an immediate recoupment as voluntary repayments. If you make an immediate recoupment, it isn't subject to interest under [Section 935\(f\)\(2\) \(B\) of the Medicare Modernization Act](#).
- **Standard Recoupment:** A MAC automatically begins standard recoupment according to the schedule on page 6. If the debt becomes delinquent, interest may accrue.
- **ERS:** If you can't make the full overpayment in the required timeframe, ERS will provide instructions for making this request in the MAC's demand letter.

## Other Options

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- **Rebuttal:** You may submit a rebuttal within 15 calendar days from the date of the MAC's demand letter. Your rebuttal must explain and provide evidence about why the MAC shouldn't recoup the payment. The MAC will promptly evaluate your rebuttal statement.

**Note:** A rebuttal is different than an appeal and doesn't stop recoupment activities.

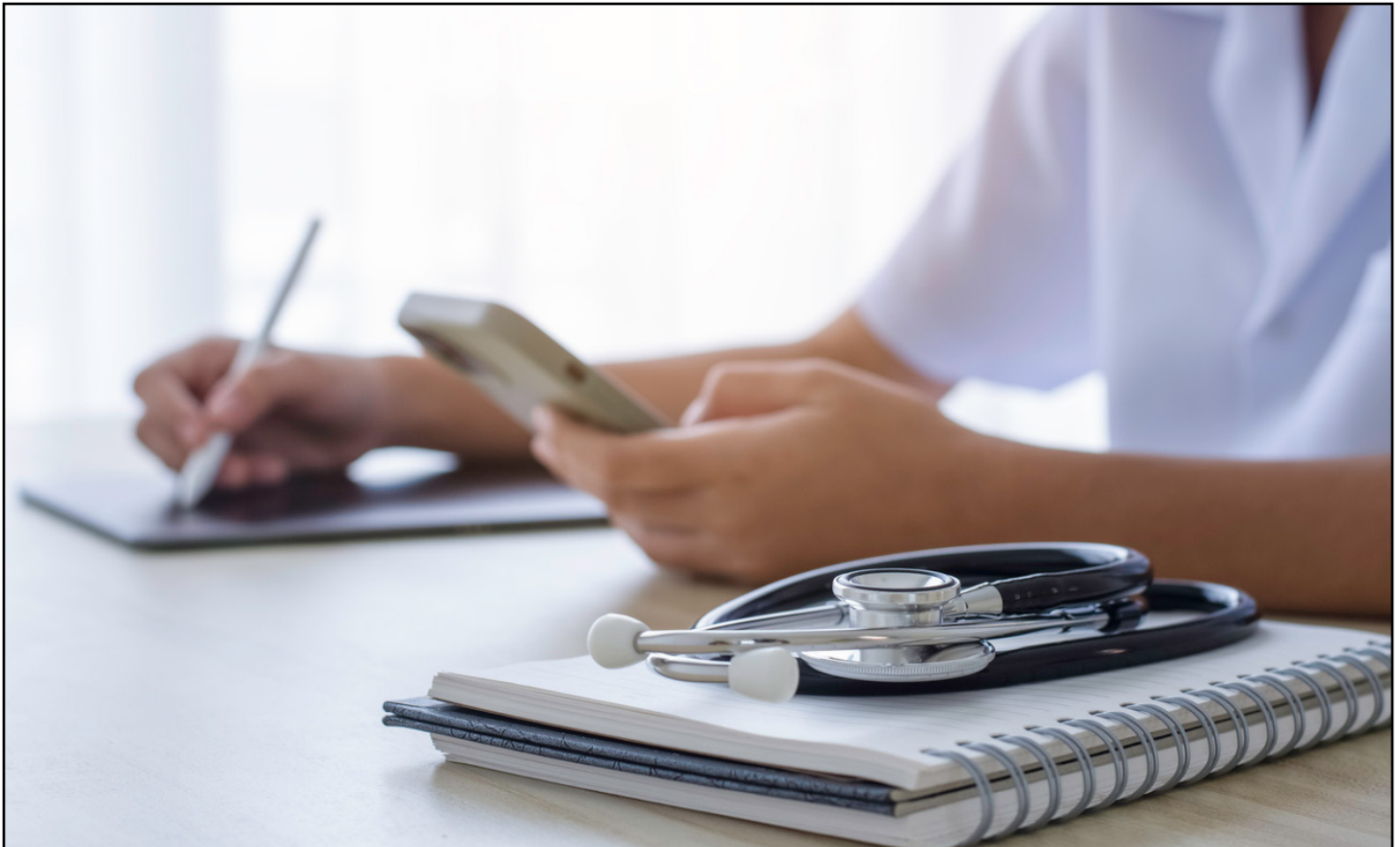
- **Appeal:** If you disagree with an overpayment decision, you can request an appeal. Medicare Part A and Part B has 5 appeal levels:
  1. **Redetermination** occurs after the initial Part A and Part B claims determination. A MAC reexamines the claim and supporting documentation. A MAC employee not involved in the initial determination makes the redetermination.
  2. **Reconsideration** by a qualified independent contractor.
  3. **Hearing** by an administrative law judge or review by an attorney adjudicator at the Office of Medicare Hearings and Appeals.
  4. **Review** by the Medicare Appeals Council.
  5. **Judicial Review** in U.S. District Court.

[Medicare Parts A & B Appeals Process](#) has more information.



## Recoupment Limitation

Section 1893(f)(2)(A) of the [Social Security Act](#) outlines our overpayment recoupment limitations. When a MAC gets a valid first- or second-level overpayment appeal, subject to certain limitations, it can't recoup the overpayment until there's an appeal decision. This affects recoupment timeframes. [42 CFR 405.379](#) has more information about overpayments subject to recoupment limitation.



## Interest

If you don't fully pay the overpayment in 30 days from the date of the initial demand letter, interest will begin accruing on Day 31. We'll charge simple interest on the outstanding principal balance of the debt starting with the date of the initial demand letter and for every 30-day period thereafter, until you've fully paid the debt. Once interest begins to accrue and is assessed, funds paid to satisfy the debt are first applied to interest, then to principal. [Medicare Financial Management Manual, Chapter 3](#) and [Chapter 4](#) explain how we apply interest.

## Debt Collection Timeframes

The table on the next page displays the timeframe for overpayment debt collection activities. It describes how overpayments subject to recoupment limitation collections differ. It also notes when an action won't apply if an overpayment is in an excluded status (for example, a requested or approved ERS, appeal, or bankruptcy).

## Overpayment Debt Collection Activities

Timeframe	Activity
Day 1	The MAC sends an overpayment determination demand letter within 7 calendar days.
Day 15	The last day you can submit a rebuttal
Day 16	The MAC begins immediate recoupment by Day 16 if you request it.
Day 16	The MAC begins standard Part A overpayment recoupment not subject to recoupment limitations or in an excluded category.
Day 30	<p>The last day to pay in full to avoid interest accrual. Interest continues to accrue for each 30-day period until you pay the debt in full.</p> <p>If you request a redetermination on an overpayment that's subject to the recoupment limitation provision, file the redetermination request by Day 30 from the date of the demand letter to prevent recoupment starting on Day 41.</p> <p>If you file an appeal after Day 30, then by Day 120 the law requires the MAC to stop recoupment subject to recoupment limitation when it gets and validates your appeal.</p> <p>In this case, the MAC won't refund money they have already recouped until the redetermination process is adjudicated.</p>
Day 31	Interest accrual begins for unpaid overpayments by Day 30, regardless of whether you've filed an appeal or request for redetermination.
Day 40	The last day you can pay overpayments in full before we begin recoupment, subject to recoupment limitation.
Day 41	The MAC begins standard overpayment recoupment unless the overpayment is an excluded category (for example, overpayments subject to recoupment limitation in the redetermination appeal status).
Days 61–90	The MAC sends an intent to refer (ITR) letter for eligible delinquent debts.
Day 90	The MAC attempts to call you if the debt is 60 days delinquent and not in a status excluded from referral to the U.S. Treasury Department (the Treasury).
Day 120	The last day you can submit an initial redetermination appeal request.
Days 126–150	The MAC refers the debt to the Treasury according to timelines specified in the <a href="#">Digital Accountability and Transparency Act</a> .

### What Happens If You Don't Return an Overpayment?

If you don't pay in full, we'll send you an ITR letter 61–90 days after the initial demand letter. The ITR letter advises you to refund the overpayment or establish an ERS. If you don't, the MAC refers the debt for collection.

We refer the overpayment debt to the Treasury or to a Treasury-designated debt collection center. Both work with the [Treasury Offset Program](#) to collect the overpayment.

The Treasury may collect the debt using:

- Demand letters
- Phone calls
- Skip tracing
- Administrative offset referrals
- Private collection agency referrals, which may collect the debt with skip tracing, credit report search, demand letters, and phone calls
- Federal salary offset
- Administrative wage garnishment
- Referral to the U.S. Department of Justice for litigation

### Resources

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- [Medicare Claims Processing Manual, Chapter 34](#)
- [Medicare Financial Management, Chapter 3 - Overpayments](#)
- [Medicare Financial Management, Chapter 4 – Debt Collection](#)
- [Provider Compliance](#)

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