CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 468	**Date: MARCH 27, 2009**
	Change Request 6204

This transmittal rescinds and replaces Transmittal 412, issued on December 5, 2008. The implementation date for the reporting requirements in Business Requirements 6204.18 and 6204.18.1 is changed from April 6, 2009 to July 6, 2009. Definitions were added to reporting requirements in Business Requirement 6204.18. All other requirements remain the same.

SUBJECT: Limitation of Recoupment - VMS Recoupment and Claims Adjustment Process

I. SUMMARY OF CHANGES: Section 935(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), requires CMS to change the way Medicare recoups certain overpayments.

New / Revised Material
Effective Date: January 1, 2009-All requirements except for reporting automation;
April 1, 2009-Analysis and design of reporting automation;
July 1, 2009-Reporting automation

Implementation Date: January 5, 2009-All requirements except for reporting automation;
April 6, 2009-Analysis and design of reporting automation;
July 6, 2009-Reporting automation

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

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
N/A	

III. FUNDING:
SECTION A: For Fiscal Intermediaries and Carriers:
No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

SECTION B: For Medicare Administrative Contractors (MACs):
The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the contracting officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the contracting officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

One-Time Notification

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

Attachment – One-Time Notification

Pub. 100-20	Transmittal: 468	Date: March 27, 2009	Change Request: 6204

SUBJECT: Limitation of Recoupment - VMS Recoupment and Claims Adjustment Process

This transmittal rescinds and replaces Transmittal 412, issued on December 5, 2008. The implementation date for the reporting requirements in Business Requirements 6204.18 and 6204.18.1 is changed from April 6, 2009 to July 6, 2009. Definitions were added to reporting requirements in Business Requirement 6204.18. All other requirements remain the same.

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I. GENERAL INFORMATION

A. Background: Section 1893(f)(2) of the Social Security Act, added by Section 935(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), requires CMS to change the way Medicare recoups certain overpayments. Before the MMA was enacted, if a provider or supplier elected to appeal an overpayment determination, there was no effect on Medicare's ability to recover the debt. This MMA provision requires that if a provider of services or a supplier seeks a reconsideration by a qualified independent contractor (QIC) on an overpayment determination, CMS and its Medicare contractors may not recoup the overpayment until the date the decision on the reconsideration has been rendered. The QIC is the second level of appeal in the Medicare claims appeal process; the contractor redetermination is the first level of appeal. Section 1893(f)(2), the limitation on recoupment, also changed Medicare's obligation to pay interest to a provider or supplier whose appeal is successful at levels above the QIC.

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

In addition, to the extent it is feasible and cost-effective to do so, certain new or revised overpayment recovery processes required to fully implement the limitation on recoupment should be automated. For planning and system design purposes, these changes should reflect the following approach. For Part B overpayments subject to section 1893(f)(2), receipt of a timely and valid request for appeal (the contractor redetermination) triggers the limitation on recoupment. Once the contractor has determined the overpayment and adjusted the claim in the VMS system, the withholding of the overpayment will automatically be set to begin withholding on day 41 from the determination date. When that day is current the withholding shall begin if the provider has not submitted an appeal for redetermination (first level of appeal). If an appeal was submitted by the provider within those 40 days the withholding will not begin. If the contractor redetermination results in a full or partial affirmation of the overpayment, contractors can begin or resume recoupment starting on day 61 and no later than day76 after giving notice unless the provider appeals to the QIC in the interim. The contractor should cease or not begin recoupment if the QIC notifies the contractor that a valid and timely request for a reconsideration (second level appeal) has been received. Following final action by the QIC, the contractor can

initiate or resume recoupment whether or not the provider subsequently appeals to the Administrative Law Judge (ALJ) (third level of appeal). For a period of up to 30-45 days following final action by the QIC and resumption of recoupment, Medicare contractors should not issue a second demand letter, the intent to refer letter, nor proceed with referral to the Department of Treasury. Interest will continue to accrue under current policies but will not be assessed when recoupment is stopped at either the redetermination or reconsideration (first and second level of appeals).

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

Number	**Requirement**	**Responsibility (place an "X" in each applicable column)**									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
6204.1	The contractor shall identify the adjustment as applicable to the section 935 process.		X								
6204.1.1	The contractor shall determine if the limitations apply to the claim at the time of the adjustment and annotate the system of the 935 adjustment.		X								
6204.2	VMS (ViPS Medicare System) shall recognize most overpayment claim adjustments as 935 applicable with the exclusion of beneficiary overpayments, provider initiated adjustments and all other Medicare Secondary Payer recoveries except those identified in Pub. 100.06, Medicare Financial Management Manual chapter 3 section **200.1** (C and D).								X		
6204.3	Contractor shall cease recoupment or not begin recoupment at the normally scheduled time. This happens when a valid first level appeal (redetermination) or a valid second level appeal (reconsideration) is received by a physician or other supplier on an overpayment subject to these limitations.		X								
6204.4	Contractor shall issue the appropriate demand letter with the 935 verbiage provided in CR 6183.		X								
6204.4.1	The contractor shall ensure the language in the demand letter makes clear that the provider may appeal all of the claims from the overpayment demand or only part of the claims.		X								
6204.5	The contractor shall include a claim level detail report of the claim adjustments that comprise the overpayment along with the demand letter to each provider.		X								
6204.6	Debts shall continue to age and accrue interest.								X		
6204.6.1	The contractor shall process a special check to pay 935 interest in the instances when a provider wins at the ALJ level or contractor late payment interest.		X								

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
	This interest shall not be applied to any outstanding debts and should be manually overridden in the system to avoid application.										
6204.6.2	The system shall produce the interest information. This 935 interest shall be considered as income and the provider shall report this on the 1099 INT form.								X		
6204.7	VMS shall maintain all levels of appeal data on 935 tracking file including dates, dollar amounts, levels and age of appeal, account receivable numbers, decisions and number of claims. The 935 tracking file will dictate subsequent collection activities and interest due based on this data.								X		
6204.7.1	The system shall produce a Daily 935 appeals detail reports for Redeterminations, Reconsideration and ALJ appeals. The 935 appeals reports shall capture all collection activities and should include but are not limited to the following: • Account Receivable number • Account Dollar amount • Provider Number/NPI • Appeal dates • Decision dates • Decision determination • Accrued Interest • Pending/Closed Status • Demand Letter Notification date • Decision Age • Scheduled Offset date • Date of Last Activity								X		
6204.8	Contractors shall update the 935 tracking record when a valid request for appeal has been received.		X								
6204.9	Recoupment shall cease or not begin at the normal scheduled time once a valid 1st or 2nd level appeal request is entered in the 935 tracking file.								X		
6204.10	If funds were withheld, they shall not be released. They shall be held until a final appeal determination unless both conditions below are met: a. the provider specifically requests this, b. and the contractor continued to recoup for an administratively unreasonable		X								

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		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
	period of time after the date of receipt of the valid appeal request.										
6204.11	The Contractor shall have the capability to stop the withholding activity manually if the receivable is being collected via withholding and for whatever reason, other than the appeal date.		X								
6204.12	**Level 1 Contractor Redetermination decision** Contractor shall enter decision, dollar amounts and related dates in the 935 tracking file.		X								
6204.12.1	The system shall allow for additional demand letters to be sent as necessary based on data in the 935 tracking file.								X		
6204.12.2	Recoupment shall automatically resume for affirmed or partially favorable decisions in 60 days but no longer than 75 days based on data on the 935 tracking file unless the provider requests a reconsideration.								X		
6204.12.3	Contractor shall evaluate receivable and determine over/under payments, calculate interests and any refunds due based on data in the 935 tracking file.		X						X		
6204.12.4	Contractor shall adjust the receivable and take appropriate action and update the 935 tracking file.		X						X		
6204.12.5	Contractor shall resume with collection activities based on data in the 935 tracking file.		X								
6204.13	**Level 2 Contractor Reconsideration Decision** Contractor shall enter decision, dollar amounts and related dates in the 935 tracking file.		X								
6204.13.1	The system shall allow for additional demand letters to be sent as necessary based on data in the 935 tracking file.								X		
6204.14	This requirement intentionally omitted by CMS.										
6204.14.1	This requirement intentionally omitted by CMS.										
6204.14.2	Recoupment shall automatically resume for affirmed or partially favorable decisions in 30 days but no longer than 45 days based on data in the 935 tracking file with no regard to ALJ submitted appeal.								X		
6204.14.3	VMS system shall evaluate receivables and determine over/under payment, calculate interest and any refund due based on data in the 935 tracking file.								X		
6204.14.4	VMS system shall adjust the receivable and take								X		

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
	appropriate action and update the 935 tracking file.										
6204.14.5	Contractors shall resume with collection activities based on data in the 935 tracking file.		X								
6204.15	**Level 3 ALJ and higher levels** Contractors shall enter decision, dollar amounts and related dates in the 935 tracking file.		X								
6204.15.1	VMS system shall evaluate receivables and determine over/under payment, calculate interest and any refund due based on data in the 935 tracking file. Note: 935 interest calculations are used.								X		
6204.15.2	System shall adjust the receivable and take appropriate action and update the 935 tracking file.								X		
6204.15.3	Contractors shall resume with collection activities based on data in the 935 tracking file.		X								
6204.16	VMS shall set up individual AR's for all 935 adjustments to make certain that no recoupment is made on claims in appeal status on the 1st and 2nd level and also that all other debts not in appeal status will continue to be placed on suspense or on withhold.		X						X		
6204.16.1	The contractor shall continue to collect other debts owed by the provider, but may not withhold or place in suspense, any monies related to this debt, while in appeal status if an overpayment is appealed and recoupment stopped.								X		
6204.17	System shall create an IUR user defined field to select if applicable to 935.								X		
6204.18	System shall provide to contractor Quarterly summary reports for 935 Redetermination, Reconsideration and ALJ appeals in Excel format which include: a. Number of pending A/R – open A/R's where no appeal has been received and possible recoupment b. Number of pending A/R with Appeals received – appeal submitted no recoupment taking place c. Number of pending appeals with Favorable, Partial and Unfavorable decision – appeal decision received; pending recoupment or pending refund due to provider d. Number of A/R with offset – how many		X						X		

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
	A/R's were offset e. Number of A/R closed – completed offset without appeal submission, provider withdrew appeal and offset complete, appeal decision rendered f. Average Age of pending Appeals-length of time in appeal status at each level g. Average Age of closed Appeals- length of time appeal took to close at each level h. Dollar amount of outstanding A/R pending Appeal – overpayment amount at each level of appeal i. Dollar amount of closed A/R appealed – overpayment amount after decision rendered on each level j. Dollar amount of Accrued Interest- accrued interest amount after the decision is rendered at each level of appeal Contractors shall send this report via email to: medicareoverpayments@cms.hhs.gov. A final report is due quarterly to CMS.										
6204.18.1	The contractor shall report the 935 interest paid based on an ALJ or later decision that fully or partially reverses the previous decision each calendar quarter.		X								

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
	None.										

IV. SUPPORTING INFORMATION

X-Ref Requirement Number	Recommendations or other supporting information:

V. CONTACTS

Pre-Implementation Contact(s):
Theresa S. Jones-Carter
theresa.jones-carter@cms.hhs.gov
410-786-7482

Post-Implementation Contact(s):
Theresa S. Jones-Carter
theresa.jones-carter@cms.hhs.gov
410-786-7482

VI. FUNDING

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

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

Section B: ***For Medicare Administrative Contractors (MACs)***:

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the contracting officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the contracting officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

Two Attachments

CONTRACTOR 935 APPEAL TRACKING REPORT	**# of Providers**	**Value of claims**	**Number of appealed claims**	**Appeal results**	**Interest payments**	**# Pending**	**# Closed**
Rebuttal							
Home Health							
Physician							
Total							
Redetermination							
Fully Favorable							
Home Health							
Skilled Nursing Facility							
Total							
Partially Favorable							
Home Health							
Physician							
Total							
Unfavorable							
Home Health							
Physician							
Total							

Reconsideration							
Fully Favorable							
Home Health							
Physician							
Total							
Partially Favorable							
Home Health							
Physician							
Total							
Unfavorable							
Home Health							
Physician							
Total							
ALJ/Interest							
Fully Favorable							
Home Health							
Physician							
Total							
Partially Favorable							
Home Health							
Physician							
Total							

Unfavorable							
Home Health							
Physician							
Total							

Account Receivable #

VMS 935 APPEAL TRACKING REPORT	**# of Providers**	**Value of claims**	**Number of appealed claims**	**Dates**	**Appeal results**	**Interest payments**	**Age of Appeal**
Rebuttal							
Home Health							
Physician							
Total							
Redetermination							
Fully Favorable							
Home Health							
Skilled Nursing Facility							
Total							
Partially Favorable							
Home Health							
Physician							
Total							
Unfavorable							
Home Health							
Physician							
Total							

Reconsideration							
Fully Favorable							
Home Health							
Physician							
Total							
Partially Favorable							
Home Health							
Physician							
Total							
Unfavorable							
Home Health							
Physician							
Total							
ALJ/Interest							
Fully Favorable							
Home Health							
Physician							
Total							
Partially Favorable							
Home Health							
Physician							
Total							

Unfavorable							
Home Health							
Physician							
Total							

Account Receivable #