

Medicare Overpayment Demands: The Financial Timeline and Options



The process of Medicare contractors – such as Zone Program Integrity Contractors (ZPIC) and Recovery Audit Contractors (RAC) – issuing adverse medical review findings and Medicare Administrative Contractors (MAC) subsequently demanding repayment of alleged overpayments can be very daunting for providers. This is particularly true when Medicare contractors employ statistical sampling methodologies which expand overpayment sums to a designated universe of claims beyond just the actual claims reviewed. A few thousand dollars worth of claims suddenly becomes tens or even hundreds of thousands of dollars. In many instances, providers will choose to appeal adverse determinations, ready to defend the good faith provision of services based on the medical needs of its patients. Understanding the financial implications and timeline of an overpayment assessment is hugely important. Should the provider pay the overpayment up front? If the provider can't pay the overpayment sum immediately, how can it work with Medicare to repay the sum in a financially feasible manner? What if the provider doesn't want to repay the overpayment – what steps will Medicare take? **These questions are best addressed in reverse order.**

Medicare expects providers to repay any overpayment as quickly as possible. If Medicare does not receive payment within 40 calendar days from the date of the MAC's first demand letter, **Medicare will recoup the full overpayment amount beginning on day 41**, meaning the overpayment will be recovered from current payments due or from future claims submitted. There are multiple ways to delay recoupment, including by submitting a rebuttal to your MAC within 15 days of the initial demand letter (no guarantee) and filing appeal requests for the first two levels of appeal within specified time frames. Specifically, a provider must file the first level appeal – called the redetermination level – within 30 days of the initial demand letter to prevent recoupment through

the time that a redetermination decision issues. If the redetermination decision is unfavorable, the provider must file the second level appeal – called the reconsideration level – within 60 days of the redetermination decision. If the reconsideration decision is also unfavorable, Medicare will initiate recoupment 30 days after the reconsideration decision is issued. If the reconsideration is partially favorable, and the overpayment sum requires recalculation, recoupment will begin 30 days after the recalculated demand.

It is important for providers to understand that even while recoupment is stalled, **interest accrues starting with the date of the initial demand letter and is assessed every 30 days thereafter.** While capitalization does not occur, the interest rate is quite high, at 10.50% as of January 21, 2015. Even if a provider is successful at postponing recoupment, the reality is that if a provider is at all unsuccessful through the first two levels of the Medicare administrative appeals process, recoupment will begin if the provider does not repay the overpayment and the provider likely must wait years to have a hearing scheduled before an Administrative Law Judge. Given that interest accrues and recoupment delay measures are really a short-term strategy, providers should use these tactics to buy time for serious financial planning. If a provider can repay some or all of the overpayment upon demand, the provider can lower or prevent the interest penalty, not to mention control the repayment process.

A provider can set up an Extended Repayment Schedule (ERS) at any time once the first demand is made. If an unfavorable reconsideration decision is issued and the provider has not repaid the overpayment or established an ERS, the provider has two choices: allow Medicare to recoup or request an ERS. As long as a provider continues to appeal, Medicare cannot refer the debt to the Department of Treasury. Interest continues to accrue during recoupment and recoupment can be devastating to a provider whose payer mix is heavily weighted toward Medicare, effectively halting income. **If an ERS is put into place, interest accrual ceases.** Medicare also takes into consideration the financial hardship that an overpayment debt obligation imposes on a provider, and depending on whether the debt imposes a “hardship” or an “extreme hardship” on a provider, the ERS can be as long as 60 months. For a provider who is not a sole proprietor, the ERS application process can be tedious. The list of documents needed to support financial hardship is extensive, including balance sheets, income statements, cash flow statements, and lists of restricted cash funds, investments, and notes and mortgages payable. If a provider cannot establish genuine hardship, an ERS will be rejected or modified to reflect what Medicare believes is an appropriate repayment schedule based on the provider’s financials. Any repayments made under an ERS do not accrue interest in favor of the provider, if the provider is successful at reducing or eliminating the overpayment upon appeal; likewise, interest does not accrue in favor of Medicare either.

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If a provider is able to repay some or all of the overpayment upon demand, the provider has better control over the repayment process during the administrative appeals process, even if the provider adamantly disagrees with the overpayment assessment. The provider can avoid or limit recoupment and interest accrual. The provider will get its money back if it wins on appeal, though not with interest. Of course, if the provider does not win, Medicare keeps the money.

It is important for providers to understand the financial landscape of an overpayment demand. A provider familiar with the recoupment timeline and repayment options can immediately assess its finances and determine the best strategy for addressing the alleged overpayment during the administrative appeals process.

Do you have the policies and procedures in place to effectively deal with a Medicare Recoupment?
Have you received correspondence from a ZPIC or RAC auditor and have delayed responding?

[CONTACT US for a free consultation on these ZPIC issues.](#)



Lorraine Ater, Esq. is a health law attorney with the boutique firm, Liles Parker, Attorneys & Counselors at Law. Liles Parker has offices in Washington DC, Houston TX, McAllen TX and Baton Rouge LA. Our attorneys represent health care professionals around the country in connection with government audits of Medicaid and Medicare claims, licensure matters and transactional projects. Need assistance? For a free consultation, please call: 1 (800) 475-1906.