



## MEDICARE OVERPAYMENTS



**Target Audience:** Medicare Fee-For-Service Providers

The Hyperlink Table, at the end of this document, provides the complete URL for each hyperlink.

Learn about these Medicare overpayment topics:

- Overpayment definition
- Overpayment collection process
- Overpayment collection tools
- Payment options
- Debt collection process timeframes
- Resources

**NOTE:** Visit the [Coordination of Benefits & Recovery Overview](#) webpage when Medicare is not the beneficiary's primary health insurance coverage to find information about Medicare Secondary Payer overpayments.

## OVERPAYMENT DEFINITION

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A Medicare overpayment is a payment that exceeds amounts properly payable under Medicare statutes and regulations. When Medicare identifies an overpayment, the amount becomes a debt you owe the Federal government. Federal law requires the Centers for Medicare & Medicaid Services (CMS) to recover all identified overpayments.

Medicare overpayments commonly occur due to:

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

## OVERPAYMENT COLLECTION PROCESS

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You must report and return a self-identified overpayment to Medicare as outlined in [Section 1128J\(d\) of the Social Security Act](#) (the Act) within:

- 60 days of overpayment identification
- 6 years from overpayment receipt, generally referred to as the “lookback period”
- If applicable, the cost report due date

When an overpayment is \$25 or more, your Medicare Administrative Contractor (MAC) initiates overpayment recovery by sending a demand letter requesting repayment.

## OVERPAYMENT COLLECTION TOOLS

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### Demand Letter

A MAC demand letter explains:

- The overpayment reason
- Interest begins to accrue if you do not repay the overpayment in full within 30 days
- Immediate recoupment request options
- Extended Repayment Schedule (ERS) request options
- Rebuttal rights
- Appeal rights

You may choose from these options when responding to an initial demand letter:

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

## PAYMENT OPTIONS

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- **Immediate Payment** – Follow the demand payment letter directions.
- **Request Immediate Recoupment** – Occurs when Medicare recovers an overpayment by offsetting future payments. Recoupment may be partial (for example, a percentage of payments recouped) or complete. Upon your request, your MAC can begin recoupment immediately by following the demand letter instructions. Establishing immediate recoupment applies to all current and future debts unless otherwise specified.
- **Request Standard Recoupment** – Your MAC automatically begins standard recoupment according to the Overpayment Debt Collection Activities chart schedule. Interest may accrue if the debt becomes delinquent.
- **Request an ERS** – Follow the instructions in the MAC ERS demand letter if you cannot make the full overpayment in the required timeframe.

## OTHER OPTIONS

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- **Rebuttal** – Submit a rebuttal within 15 calendar days from the date you receive the MAC demand letter. Explain or provide evidence why no recoupment should occur in your rebuttal statement. The MAC promptly evaluates your rebuttal statement.

**NOTE:** A rebuttal is different than an appeal and does not stop recoupment activities.

- **Appeal** – You or your representative can file a request for appeal if you disagree with an overpayment decision. Medicare Part A and Part B has five appeal levels:
  1. **Redetermination** is the first appeal level after the initial Part A and Part B claims determination. The MAC takes a second look at the claim and supporting documentation. A MAC employee uninvolved in the initial determination makes the redetermination.
  2. **Reconsideration** by a Qualified Independent Contractor (QIC).
  3. **Hearing** by an Administrative Law Judge or **Review** by an Attorney Adjudicator at the Office of Medicare Hearings and Appeals (OMHA).
  4. **Review** by the Medicare Appeals Council.
  5. **Judicial Review** in U.S. District Court. Refer to the [Medicare Parts A & B Appeals Process](#) booklet for more information about appeals.

## LIMITATION ON RECOUPMENT

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[Section 1893\(f\)\(2\)\(A\) of the Act](#) established Medicare overpayment recoupment limitations. When CMS and MACs receive a valid first- or second-level appeal on an overpayment, subject to certain limitations, they cannot recoup the overpayment until they receive an appeal decision. This affects recoupment timeframes. Refer to MLN Matters® Article, [Limitation on Recoupment \(935\) for Provider, Physicians and Suppliers Overpayments](#) and the Code of Federal Regulations (CFR) at [42 CFR 405.379](#) to find out which overpayments are subject to limitation on recoupment.

## DEBT COLLECTION TIMEFRAMES

The following chart shows the overpayment debt collection activities timeframe. It describes how overpayments subject to the Limitation on Recoupment collection differs. It also notes when an action may not 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
<b>Day 1</b>	MAC sends an overpayment determination demand letter within 7 calendar days.
<b>Days 1–16</b>	<b>MAC begins immediate recoupment</b> by Day 16 if you request it.
<b>Day 15</b>	Last day to submit a rebuttal.
<b>Day 16</b>	<b>MAC begins standard Part A overpayment recoupment</b> not subject to Limitation on Recoupment or in an excluded category.
<b>Day 30</b>	Last day to pay in full to avoid interest accrual. Last day to request an appeal and stop overpayment recoupment subject to Limitation on Recoupment. If you file an appeal after Day 30 and by Day 120, your MAC stops recoupment <b>subject to limitation on recoupment</b> when it receives and validates your appeal but will not refund money already recouped.
<b>Day 31</b>	<b>Interest accrual begins</b> for unpaid overpayments by Day 30.
<b>Day 40</b>	Last day to pay overpayments in full before recoupment begins, subject to Limitation on Recoupment, unless it is in an excluded category.
<b>Day 41</b>	<b>MAC begins standard overpayment recoupment</b> , subject to Limitation on Recoupment, unless overpayment is in an excluded category.
<b>Days 61–90</b>	MAC sends Intent to Refer (ITR) letter for eligible delinquent debts.
<b>Day 90</b>	MAC attempts to contact you by phone if the debt is 60 days delinquent and not in a status excluded from referral to the U.S. Department of the Treasury (the Treasury).
<b>Day 120</b>	Last day to submit initial appeal request.
<b>Days 126–150</b>	Debt referred to the Treasury according to timelines specified in the Digital Accountability and Transparency Act (DATA).

## OVERPAYMENT COLLECTION PROCESS

If you fail to pay in full, you receive an ITR letter 60–90 days after the initial demand letter. The ITR letter advises you to refund the overpayment or establish an ERS. Otherwise, your debt is referred for collection.

CMS refers the overpayment debt to the Treasury or to a Treasury-designated Debt Collection Center (DCC). Either the Treasury or the DCC work through the [Treasury Offset Program](#) (TOP) to collect the overpayment.

The Treasury may effectively collect the debt that agencies refer using:

- Demand letters
- Phone follow-up
- 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

## RESOURCES

### Medicare Overpayments Resources

Resource	Website
Contact Your MAC	<a href="https://www.cms.gov/MAC-website-list">Go.CMS.gov/MAC-website-list</a>
Medicare Claims Processing Manual, Chapter 34	<a href="https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c34.pdf">CMS.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c34.pdf</a>
Medicare Financial Management Manual, Chapter 3, Overpayments, and Chapter 4, Debt Collection	<a href="https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/fin106c03.pdf">CMS.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/fin106c03.pdf</a> <a href="https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/fin106c04.pdf">CMS.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/fin106c04.pdf</a>
MLN Catalog	<a href="https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/MLNCatalog.pdf">CMS.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/MLNCatalog.pdf</a>
Provider Compliance	<a href="https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/ProviderCompliance.html">CMS.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/ProviderCompliance.html</a>

**Hyperlink Table**

Embedded Hyperlink	Complete URL
42 CFR 405.379	<a href="https://www.ecfr.gov/cgi-bin/text-idx?SID=6c4fd2451e973269b5f75f64cb729238&amp;mc=true&amp;node=se42.2.405_1379&amp;rtn=div8">https://www.ecfr.gov/cgi-bin/text-idx?SID=6c4fd2451e973269b5f75f64cb729238&amp;mc=true&amp;node=se42.2.405_1379&amp;rtn=div8</a>
Coordination of Benefits & Recovery Overview	<a href="https://www.cms.gov/Medicare/Coordination-of-Benefits-and-Recovery/Coordination-of-Benefits-and-Recovery-Overview/Overview.html">https://www.cms.gov/Medicare/Coordination-of-Benefits-and-Recovery/Coordination-of-Benefits-and-Recovery-Overview/Overview.html</a>
Limitation on Recoupment (935) for Provider, Physicians and Suppliers Overpayments	<a href="https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/MM6183.pdf">https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/MM6183.pdf</a>
Medicare Parts A & B Appeals Process	<a href="https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/MLN-Publications-Items/CMS1243294.html">https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/MLN-Publications-Items/CMS1243294.html</a>
Section 1128J(d) of the Social Security Act	<a href="https://www.ssa.gov/OP_Home/ssact/title11/1128J.htm">https://www.ssa.gov/OP_Home/ssact/title11/1128J.htm</a>
Section 1893(f)(2)(A) of the Act	<a href="https://www.ssa.gov/OP_Home/ssact/title18/1893.htm">https://www.ssa.gov/OP_Home/ssact/title18/1893.htm</a>
Treasury Offset Program	<a href="https://fiscal.treasury.gov/top">https://fiscal.treasury.gov/top</a>

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