
CMS Manual System

Pub. 100-06 Medicare Financial Management

Department of Health & Human Services (DHHS)
Centers for Medicare & Medicaid Services (CMS)

Transmittal 41

Date: APRIL 30, 2004

CHANGE REQUEST 3163

I. SUMMARY OF CHANGES: Relevant provisions of the manual have been altered to conform to a regulatory change in how interest is calculated on Medicare overpayments and underpayments to providers, suppliers and other health care entities. The change also applies to Medicare Secondary Payer (MSP) recoveries. (Publication 100-05, Chapter 7, Section 30.1.5 is revised to address how interest is calculated for MSP debt.) Under the new instructions, interest for new debts will now be assessed only for full 30-day periods when payment is not made on time. Appropriate revisions (in some instances through deletions) have been made to the text of the demand letters and in Sections 30.3-30.6.

NEW/REVISED MATERIAL - EFFECTIVE DATE: October 1, 2004

***IMPLEMENTATION DATE: October 4, 2004**

Disclaimer for manual changes only: The revision date and transmittal number apply to the red italicized material only. 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:

(R = REVISED, N = NEW, D = DELETED)

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	3/40.2/ Sample Demand Letter for Claims Accounts Receivables
R	4/20.2/ Exhibit 2/ Overpayment Demand Letter – Cost Report Filed – First Request
R	4/20.2/ Exhibit 3/ Overpayment Demand Letter – Cost Report Filed – Second Request
R	4/20.2/ Exhibit 4/Overpayment Demand Letter – Cost Report Filed – Third Request
R	4/20.2/ Exhibit 5/ Overpayment Demand Letter – Unfiled Cost Report – First Request
R	4/20.2/ Exhibit 6/ Overpayment Demand Letter – Unfiled Cost Report – Second Request
R	4/20.2/ Exhibit 7/ Overpayment Demand Letter – Unfiled Cost Report – Third Request
R	4/30.3/ Interest Accruals
R	4/30.4/ Procedures for Applying Interest During Overpayment Recoupment
R	4/30.5/ Notification to Providers Regarding Interest Assessment
R	4/30.6/ Waiver and Adjustment of Interest Charges

R	4/90/ Exhibit 1/ Initial Demand Letter to Physicians/Suppliers
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***III. FUNDING:**

These instructions shall be implemented within your current operating budget.

IV. ATTACHMENTS:

X	Business Requirements
X	Manual Instruction
	Confidential Requirements
	One-Time Notification
	Recurring Update Notification

***Medicare contractors only**

Attachment - Business Requirements

Pub. 100-06	Transmittal: 41	Date: April 30, 2004	Change Request 3163
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SUBJECT: Change in Interest Calculation for Medicare Overpayments and Underpayments and Medicare Secondary Payer (MSP) Recoveries

I. GENERAL INFORMATION

A. Background: Sections 1815(d) and 1833(j) of the Social Security Act (the Act) require that, whenever a payment to a provider, supplier, or other entity is more than (overpayment) or less than (underpayment) the amount that was due to the provider, supplier (including a physician), or other entity, we assess interest on the amount of the overpayment that the provider, supplier, or other entity owes to us or the underpayment that we owe to the provider, supplier, or other entity. Interest becomes due if the overpayment amount owed to us or the underpayment amount owed by us is not paid within 30 days of the date of the final determination of the overpayment or underpayment. The regulations implementing these authorities are at 42 CFR 405.378. Section 1862(b)(2)(B)(i) of the Act provides express authority to assess interest on Medicare Secondary Payer (MSP) debts. Interest is calculated on MSP debt using the method applicable to Non-MSP Medicare overpayments and underpayments as set forth in Section 405.378. For both Medicare overpayments and underpayments and MSP debts, interest is calculated in 30-day periods, and a period that is less than 30 days is considered to be a full 30-day period.

B. Policy: On July 25, 2003, a proposed rule was published in the Federal Register (68 FR 43995) to change how interest is calculated on Non-MSP Medicare overpayments and underpayments to providers, suppliers (including physicians), health maintenance organizations, competitive medical plans, and health care prepayment plans to be more reflective of standard business practices. This change would also apply to MSP debts. Under the rule, periods of less than 30 days will no longer be treated as a full 30-day period. Interest will be assessed only for full 30-day periods when payment is not made on time. This change would take effect for non-MSP overpayments and under-payments determined and MSP debts established on or after the effective date of the final rule.

C. Provider Education: None.

II. BUSINESS REQUIREMENTS

"Shall" denotes a mandatory requirement

"Should" denotes an optional requirement

Requirement #	Requirements	Responsibility
3163.1	Interest on Non-MSP Medicare overpayments and underpayments and on MSP recovery demands shall be assessed for each full 30-day	All contractors and system maintainers

	period that payment is not made on time.	
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I. SUPPORTING INFORMATION AND POSSIBLE DESIGN CONSIDERATIONS

A. Other Instructions:

X-Ref Requirement #	Instructions
3163.2	This change in the method of calculation applies only to: (a) non-MSP Medicare overpayments and underpayments whose date of final determination occurs on or after the effective date of the final rule; and (b) those MSP debts where the debt is established by a recovery demand issued on or after the effective date of the final rule.
3163.3	For all debts determined or established prior to the effective date of the final rule, a 30-day interest charge shall continue to accrue on any principal balance outstanding at the beginning of each 30-day period until the debt is liquidated.
3163.4	Because the effective date for the change in the regulation will be 10/1/04, and the implementation date for this CR is not until 10/4/04, contractors shall not issue demand letters or MSP recovery letters on October 1-3, 2004. This will prevent the issuance of erroneous letters during the window between the effective date of the regulation, and the implementation date of these instructions.

B. Design Considerations:

X-Ref Requirement #	Recommendation for Medicare System Requirements
3163.5	Medicare contractors shall continue to have the capability of calculating interest using the existing method (a period of less than 30 days is considered to be a full 30-day period) for debts determined or established prior to the effective date of the final rule.

C. Interfaces: N/A

D. Contractor Financial Reporting /Workload Impact: N/A

E. Dependencies: This requirement and its effective date are dependent upon the content and timing of the publication of the final regulation amending 42 CFR 405.378. It is anticipated that the final regulation will be published in July 2004 with an effective date of October 1, 2004.

F. Testing Considerations: N/A

IV. SCHEDULE, CONTACTS, AND FUNDING

<p>Effective Date: October 1, 2004</p> <p>Implementation Date: October 4, 2004</p> <p>Pre-Implementation Contact(s): Eugenia Mattison, 410-786-2564; Nancy Braymer, 410-786-4323</p> <p>Post-Implementation Contact(s): Nancy Braymer, 410-786-4323</p>	<p>These instructions shall be implemented within your FY 2005 operating budget.</p>
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40.2- Sample Demand Letter for Claims Accounts Receivables

(Rev. 41, 04-30-04)

Below is a sample demand letter that FIs may use when demanding Claims Accounts Receivables. The Extended Repayment Plan enclosure can be found at Chapter 4, §20, Exhibit 2.

Date

Certified Mail

Name/Address

Re: Provider Number
Claims Accounts Receivable

Dear _____:

On _____, a claim adjustment was entered in our system under provider _____ for \$_____. Since then, adjustments were made to the claim and a balance in the amount of \$_____ has been outstanding for 60 days. As this amount has not been recouped through claims submission, the purpose of our letter is to request that this amount be repaid to our office. For your reference, a copy of the Claims Accounts Receivable Transaction Summary is enclosed. (Insert the name of the detailed summary report enclosed. This report should include sufficient information needed by the provider to identify the overpayment).

Please submit your check payable to _____, to the following address:

In order to ensure that your check is credited to this overpayment, please enclose a copy of this letter with your payment.

Until payment in full is received or an acceptable extended repayment request is received all payments due to you are being withheld. (This includes claims, settlement amounts, or interim payments.) If you have reason to believe that withhold should cease you must notify our office before _____ and provide documentation as to why this withholding action should not continue. We will review your documentation, but will not delay recoupment during the review process. This is not an appeal of the overpayment determination.

In addition, in accordance with 42 C.F.R. §405.378, simple interest at the rate of _____% will be charged on the unpaid balance of the overpayment, beginning on the 31st day.

Interest is calculated in 30-day periods and is assessed for each full 30-day period that payment is not made on time. Thus, if payment is received 31 days from the date of *this letter*, *one* 30-day period of interest will be charged. Each payment will be applied first to accrued interest and the remaining amount to principal.

Additional interest of \$___ will be assessed against the principal balance on ___ and will continue to assess at the rate of ___% a year for each 30-day period the principal amount remains unpaid. In addition, please note that Medicare rules require that payment be either received in our office by ___ or United States Postal Service postmarked by that date in order for the payment to be considered timely. A metered mail postmark received in our office after ___ will cause an additional month's interest to be assessed on the debt.

We request that you refund this amount in full. If you are unable to make refund of the entire amount at this time, please advise our office immediately so that we may determine if you are eligible for a repayment schedule (See enclosure for details). Any repayment schedule (where one is approved) would run from the date of this letter. If we do not hear from you, your interim payments will continue to be withheld and applied towards the outstanding overpayment balance. Any amount withheld will not be refunded.

If you feel you have reason to appeal this adjustment, please refer to the original remittance advice dated _____ for additional instruction.

If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding, Medicare financial obligations will be resolved in accordance with the applicable bankruptcy process. Accordingly, we request that you immediately notify us about this bankruptcy so that we may coordinate with both the Centers for Medicare & Medicaid Services and the Department of Justice so as to assure that we handle your situation properly. If possible, when notifying us about the bankruptcy, please include the name the bankruptcy was filed under and the district where the bankruptcy is filed.

If you have a question regarding why these adjustments were made, please contact our _____ at _____. If we can assist you further in the resolution of this matter, we will be glad to do so. We look forward to hearing from you shortly.

Sincerely,

(name and title)

**EXHIBIT 2- OVERPAYMENT DEMAND LETTER- COST REPORT FILED-
FIRST REQUEST**

(Rev. 41, 04-30-04)

FIRST REQUEST

Certified Mail #

Mr. Joe Smith, President
Provider Name
Anytown, State ZIP Code

Date

Dear Mr. Smith:

Contractors shall use the appropriate paragraph for the cost report situation:

(NPR Issued)

On July 26, 20xx, we received your cost report for the fiscal year ending June 30, xxxx. We have fully reviewed this report, and the results of our review have been incorporated in the enclosed copy of your Notice of Amount of Program Reimbursement (dated August 21, 20xx. As explained in the Notice, we find that the Valley Convalescent Center has been overpaid \$_____ for the past fiscal year.

(Tentative Settlement)

On July 26, 20xx we accepted your cost report for the fiscal year ending June 30, xxxx. We have completed a preliminary review of this report and have determined that the Valley Convalescent Center has been overpaid \$ _____ for this fiscal year.

(As Filed Cost Report)

On July 26, 20xx we received your cost report for the fiscal year ending June 30, xxxx, and on _____, the cost report was determined acceptable. The cost report, as filed, reflects an overpayment \$_____ for this fiscal year. The Provider Reimbursement Manual (PRM) Part 1, Chapter 24, Section 2409.A(2) states that when a cost report is filed indicating an overpayment, a full refund should accompany the cost report submission.

(Home Office Cost Report is Unfiled)

We have not received the home office cost report from _____. According to our records _____ serves as the home office for your facility. Since the home office cost report remains unfiled the amount stated on your filed cost report for the fiscal year ending _____ for home office costs has been disallowed. This disallowance will continue until the home office submits the home office cost report.

The total of \$_____ should immediately be refunded in full. Your facility's check should include your provider number and be made payable to _____.

PLEASE MAIL TO:

If payment in full is not received by, (specify a date 15 days from the date of the notification), payments to you will be withheld until payment in full is received or an acceptable extended repayment request is received. If you have reason to believe that the withhold should not occur on _____ you must notify <contractor> before _____. We will review your documentation, but will not delay recoupment. This is not an appeal of the overpayment determination. The appeal process is detailed in the NPR. In addition, in accordance with 42 CFR 447.30, if we do not receive payment in full or an extended repayment request from you within 15 days from the date of this letter we may initiate a request that your Federal share of Title XIX (Medicaid) be withheld, if applicable. If this withholding is initiated it will not be removed until payment in full is received or an acceptable extended repayment request is received and approved.

In accordance with 42 CFR 405.378 simple interest at the rate of ___ will be charged on the unpaid balance of the overpayment beginning on the 31st day. *Interest is calculated in 30-day periods and is assessed for each full 30-day period that payment is not made in full.* Thus, if payment is received 31 days from the date of final determination, *one* 30-day period of interest will be charged *and will continue to be assessed for full 30-day periods on any portion that remains outstanding until the debt is paid in full.* Each payment will be applied first to accrued interest and then to principal. After each payment interest will continue to accrue on the remaining principal balance, at the rate of _____.

We request that you refund this amount in full. If you are unable to make refund of the entire amount at this time, advise this office immediately so that we may determine if you are eligible for a repayment plan. (See enclosure for details.) Any repayment plan (where one is approved) would run from the date of this letter. If we do not hear from you, your interim payments will be withheld starting on the 16th day from the date of this letter, and applied towards the outstanding overpayment balance. Any amount withheld will not be refunded.

If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding, Medicare financial obligations will be resolved in accordance with the applicable bankruptcy process. Accordingly, we request that you immediately notify us about this bankruptcy so that we may coordinate with both the Centers for Medicare & Medicaid Services and the Department of Justice so as to assure that we handle your situation properly. If possible, when notifying us about the bankruptcy please include the name the bankruptcy is filed under and the district where the bankruptcy is filed.

Should you have any questions please contact _____ at _____.

We expect to hear from you shortly.

Sincerely,

(name and title)

Enclosure

**EXHIBIT 3- OVERPAYMENT DEMAND LETTER- COST REPORT
FILED - SECOND REQUEST**

(Rev. 41, 04-30-04)

SECOND REQUEST

Date (30 days after the date of the first demand letter)

Mr. Joe Smith, President
Valley Convalescent Center
Anytown, State ZIP Code

RE: MEDICARE OVERPAYMENT FOR <contractor name>
FISCAL YEAR ENDED _____
PROVIDER NUMBER _____

Dear Mr. Smith:

On July 26, 20xx, we sent you a request for an overpayment that resulted from FY 20xx. We have not yet received payment or an application for an extended repayment plan. The outstanding amount due for this overpayment is \$_____ which includes a principal amount of \$_____ and interest assessed in the amount of \$_____. This amount must immediately be refunded in full.

Your payments have been withheld and are being applied against the overpayment. This withhold will continue until payment in full is received or an acceptable extended repayment plan is approved.

In accordance with 42 CFR 405.378, interest is being assessed on the amount due the Medicare Program. If the overpayment is repaid in installments or recouped by withholding your facility's interim payments, each payment will first be applied to accrued interest and then to principal. Interest will be assessed for each 30-day period that payment is delayed. The interest rate set by the Secretary of the Treasury for overpayment determinations made on or after _____ is _____percent.

We request that you refund this amount in full. If you are unable to make refund of the entire amount at this time, advise this office immediately so that we may determine if you are eligible for a repayment plan. (See enclosure in initial demand letter) Any repayment plan (where one is approved) would run from the date of the first demand letter.

If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding, Medicare financial obligations will be resolved in accordance with the applicable bankruptcy process. Accordingly, we request that you immediately notify us about this bankruptcy so that we may coordinate with both the Centers for Medicare & Medicaid Services and the Department of Justice so as to assure that we handle your situation properly.

If applicable, we have also initiated a request that your Federal share of Title XIX (Medicaid) payments be withheld. If this withholding is initiated it will not be removed until payment in full is received or an acceptable extended repayment request is received and approved.

Should you have any questions please contact _____ at _____. We expect to hear from you shortly.

**EXHIBIT 4- OVERPAYMENT DEMAND LETTER- COST REPORT
FILED -THIRD REQUEST**

(Rev. 41, 04-30-04)

If the overpayment is eligible for referral to the Department of Treasury the intent to refer language shall be placed in the third demand letter. See CR 1683 and Chapter 4, §70 for more information. If the overpayment is not eligible for referral to the Department of Treasury a third demand letter requesting repayment shall be sent. A sample third demand letter for overpayments not eligible for referral to the Department of Treasury is below.

THIRD REQUEST

<Date>

Mr. Joe Smith, President
Valley Convalescent Center
Anytown, State ZIP Code

RE: MEDICARE OVERPAYMENT FOR <contractor name>
FISCAL YEAR ENDED _____
PROVIDER NUMBER _____

Dear Mr. Smith:

On August 25, 20xx, we sent you a second request for an overpayment that resulted from FY 20xx. We have not yet received payment or an application for an extended repayment plan. The outstanding amount due for this overpayment is \$_____

which includes a principal amount of \$_____ and interest assessed in the amount of \$_____. This amount must immediately be refunded in full.

Your payments have been withheld and are being applied against the overpayment. This withhold will continue until payment in full is received or an acceptable extended repayment plan is approved.

In accordance with 42 CFR 405.378, interest is being assessed on the amount due the Medicare Program. If the overpayment is repaid in installments or recouped by withholding your facility's interim payments, each payment will first be applied to accrued interest and then to principal. Interest will be assessed for each 30-day period that payment is delayed. The interest rate set by the Secretary of the Treasury for overpayment determinations made on or after _____ is _____percent.

We request that you refund this amount in full. If you are unable to make refund of the entire amount at this time, advise this office immediately so that we may determine if you are eligible for a repayment plan. (See enclosure in initial demand letter) Any repayment plan (where one is approved) would run from the date of the first demand letter.

If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding, Medicare financial obligations will be resolved in accordance with the applicable bankruptcy process. Accordingly, we request that you immediately notify us about this bankruptcy so that we may coordinate with both the Centers for Medicare & Medicaid Services and the Department of Justice so as to assure that we handle your situation properly.

If applicable, we have also initiated a request that your Federal share of Title XIX (Medicaid) payments be withheld. If this withholding is initiated it will not be removed until payment in full is received or an acceptable extended repayment request is received and approved.

Should you have any questions please contact _____ at _____. We expect to hear from you shortly.

**EXHIBIT 5: OVERPAYMENT DEMAND LETTER – UNFILED
COST REPORT- FIRST REQUEST**

(Rev. 41, 04-30-04)

(Mailed 7 calendar days after cost report was due)

Date:

FIRST DEMAND LETTER

{Provider name}
{Mail to Name}
{Mail to Address 1}
{Mail to Address 2}
{City} {State} {Zip}

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

RE: Late Medicare Cost Report

Provider Name: {DBA Name}
Provider Number: {xxxxxxxx}
Fiscal Year End: {Month, Day, Year}
Taxpayer Identification Number: {xxxxxxx}

Dear {Title} {Last Name}

We have not received the cost report for {DBA Name}, provider number {xxxxxxx} for the period ending {month/day/year}. Under Title 42 Code of Federal Regulations (CFR), Section 413.24, cost reports are due by the last day of the fifth month following the close of the provider's cost report year or 30 days after receipt of valid Provider Statistical and Reimbursement (PS &R) reports from the contractor, whichever is later. Your report is now late as it was due {month/day/year}.

Deemed Overpayment: Title 42 CFR 405.378 (c) (1) (v)

As a cost report has not been received from your facility, all interim and lump sum payments made for the fiscal period noted above are deemed an overpayment. The principal amount of the overpayment related to this fiscal period is {\$ xxxxxx.xx} . If you do not submit a cost report please be advised that this letter constitutes Federal Claims Collection Standards (FCCS) notification that this amount is now due and must be remitted to us within thirty (30) days from the date of this letter. Interest will be assessed on any portion of this amount that is not paid timely.

If full payment is not received or arrangements made for an extended repayment plan, we will take all action(s) necessary to recover the full amount. (See enclosure for extended repayment plan details.)

Suspension:

As your cost report has not been received timely, all payments to your facility have now been suspended under the authority of Title 42 CFR Section 405.371(c). Payments will not be resumed until an acceptable cost report is received by us.

Interest Charges:

Interest is assessed on late cost reports and late payments under Title 42 CFR 405.378 (c) (1) (v):

1. Cost reports reflecting an amount due to the Medicare program must include the full amount owed (including interest) from the day following the date the cost report was due to the date that the cost report is filed.

2. If a late cost report reflects that there is an amount due Medicare and the full amount owed (including interest) is not included with the cost report, interest will continue to accrue on the overpayment until it is paid in full.

3. Additionally, when it is determined that an additional overpayment exists on a late filed cost report, through interim settlement or NPR, interest will be assessed on the overpayment from the day following the date the cost report was due to the date the cost report is filed. If the subsequent overpayment is not paid within thirty (30) days of the date of the first demand letter, additional interest will be assessed from the date of the subsequent determination until the overpayment is paid in full. If the full amount is not paid, any partial payments will be applied first to accrued interest and then to principal. After each partial payment, interest will continue to accrue on the remaining principal balance.

Interest Computation:

The interest rate in effect at the time your cost report was due is {xx.xxx%}. This rate is applicable to any overpayments related to the untimely filing of your cost report.

Under Title 42 CFR Section 405.378 (b) (2), interest charges are assessed *in* thirty days periods. Thus, if payment is received 31 days from the date of final determination, *one* 30-day period of interest will be assessed *and for each full 30-day period until the debt is paid in full.*

Cost Report Submission:

Please attend to this matter immediately by mailing a copy of this letter together with: (1) A completed cost report together with any amounts due (principal and interest), (2) A complete refund of all interim payments, the deemed overpayment (principal and interest), within thirty days of the date of this letter, or (3) A request for a repayment plan of all interim payments, the deemed overpayment, within fifteen (15) days of the date of this letter. Checks are to be made payable to {Contractor}. They and/or your remittance advice should be annotated with your provider name, number, and cost report year end that applies to the amount due.

{Prime Contractor}
{Division or Group}
{Routing, Room Number}
{Mail To Address 1}
{Mail To Address 2}
{City, State, Zip}

As you are aware, cost reports are subject to further review. There could be additional adjustments required after completion of a review. Therefore, the records supporting this report are to be retained for at least three (3) years from the date of the NPR.

If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding, Medicare financial obligations will be resolved in accordance with the applicable bankruptcy process. Accordingly, we request that you immediately notify us about this bankruptcy so that we may coordinate with both the Centers for Medicare and Medicaid Services and the Department of Justice so as to assure that we handle your situation properly. If possible, when notifying us about the bankruptcy please include the name the bankruptcy is filed under and the district where the bankruptcy is filed.

Medicaid Offset:

If this matter is not resolved within fifteen (15) days from the date of this letter, CMS may instruct the Medicaid State Agency to withhold the Federal share of any Medicaid payments that may be due you or related facilities until the full amount owed Medicare is recouped, Title 42 CFR, Section 447.30(g). These recoveries will be in addition to any recoupments from other Medicare funds due you until the full amount owed to Medicare is recovered.

Termination of Medicare Provider Agreement:

Please be advised that under Title XVIII, Section 1866(b)(2)(A) and (C) of the Social Security Act, continued failure to submit the required cost report may result in the termination of your Medicare provider agreement.

If you have submitted a cost report and any payment due Medicare please disregard this letter. If you have any questions concerning this letter, do not hesitate to call {Title} {Insert full name} at {(xxx) xxx-xxxx}.

Sincerely,

{Title} {Name}
{Position Title}

Exhibit 6- OVERPAYMENT DEMAND LETTER- UNFILED COST REPORT- SECOND REQUEST

(Rev. 41, 04-30-04)

Date:

SECOND DEMAND LETTER

{Provider Name}
{Mail to Name}
{Mail to Address 1}
{Mail to Address 2}
{City} {State} {Zip}

RE: Late Medicare Cost Report

Provider Name: {DAB Name}
Provider Number: {xxxxxxxx}
Fiscal Year End: {Month, Day, Year}
Taxpayer Identification Number: {xxxxxx}

Dear {Title} {Last Name}

This is our second letter to you noting that we have not received the cost report for {DBA Name}, provider number {xxxxxxxx} for the period ending {month/day/year}. Under Title 42 Code of Federal Regulations (CFR), Section 413.24, cost reports are due by the last day of the fifth month following the close of the provider's cost report year or 30 days after receipt of valid Provider Statistical and Reimbursement (PS & R) reports from the contractor, whichever is later. Your report continues to be late as it was due {month/day/year}.

Deemed Overpayment:

As neither cost report or payment for the deemed overpayment has been received from your facility, all interim and lump sum payments made for the fiscal period noted above continue to be deemed an overpayment and are now delinquent. The amount owed is {\$xxxxx.xx}. This amount is overdue and must be remitted to us within thirty (30) days from the date of this letter. Interest will be assessed on any portion of this amount that is not paid timely. If full payment is not received, we will take all action(s) necessary to recover the full amount owed.

Suspension:

As your cost report has not been received timely, all payments to your facility continue to be suspended under the authority of Title 42 CFR Section 405.371(c). Payments will not be resumed until an acceptable cost report is received by us.

Interest Charges:

Interest is assessed on late cost reports and late payments under Title 42 CFR 405.378(c)(1)(v):

1. Cost reports reflecting an amount due the Medicare program must include the amount owed (including interest) from the day following the due date of the cost report to the date that the cost report is filed.

2. If a late cost report reflects that there is an amount due Medicare and the full amount owed (including interest) is not included with the cost report, interest will continue to accrue on the overpayment until it is paid in full.
3. Additionally, when it is determined that an additional overpayment exists on a late filed cost report, through interim settlement or NPR) interest will be assessed on the overpayment from the day following the date the cost report was due to the date the overpayment is paid. If the full amount is not paid, any partial payments will be applied first to accrued interest and then to principal. After each partial payment, interest will continue to accrue on the remaining principal balance.

Interest Computation:

The interest rate in effect at the time your cost report was due is {xx.xxx%}. This rate is applicable to any overpayments related to the untimely filing of your cost report. Under Title 42 CFR Section 405.378, interest charges are assessed *in* thirty days periods. Interest charges for a thirty (30) day period are calculated by multiplying the principal amount due by the interest rate and then dividing by twelve (12). *A* debt that is paid thirty-one (31) days late is assessed *one (1)* full thirty-day period.

Cost Report Submission:

Please attend to this matter immediately by mailing a copy of this letter together with: (1) A completed cost report together with any amounts due (principal and interest), (2) A complete refund of all interim payments, the deemed overpayment (principal and interest), within thirty days of the date of this letter. Checks are to be made payable to {Contractor}. They and/or your remittance advice should be annotated with your provider name, number, and cost report year end that applies to the amount due.

{Prime Contractor}
{Division or Group}
{Routing, Room Number}
{Mail To Address 1}
{Mail To Address 2}
{City, State, Zip}

As you are aware, cost reports are subject to further review. There could be additional adjustments required after completion of a review. Therefore, the records supporting this report are to be retained for at least three (3) years.

As we informed you previously, If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding, Medicare financial obligations will be resolved in accordance with the applicable bankruptcy process. Accordingly, we request that you immediately notify us about this bankruptcy so that we may coordinate with both the Centers for Medicare and Medicaid Services and the Department of Justice so as to assure that we handle your situation properly. If possible, when notifying us about the bankruptcy please include the name the bankruptcy is filed under and the district where the bankruptcy is filed.

Termination of Medicare Provider Agreement:

Please be advised that under Title XVIII, Section 1866(b)(2)(A) and (C) of the Social Security Act, continued failure to submit the required cost report may result in the termination of your Medicare provider agreement. However, termination of a provider agreement in no way abrogates the responsibility of the facility to file a cost report, repay an overpayment, or to comply with the Medicare law, regulations, and instructions applicable to the period when the facility was participating.

If you have submitted a cost report and any payment due Medicare please disregard this letter. If you have any questions concerning this letter, please call _____ at _____.

Sincerely,

Name and title

Exhibit 7- Overpayment Demand Letter- Unfiled Cost Report- Third Request

(Rev. 41, 04-30-04)

If the overpayment is eligible for referral to the Department of Treasury the intent to refer language shall be placed in the third demand letter. See CR 1683 and Chapter 4, §70 for more information. If the overpayment is not eligible for referral to the Department of Treasury a third demand letter requesting the cost report shall be sent. A sample third demand letter for overpayments not eligible for referral to the Department of Treasury is below.

Date:

THIRD DEMAND

{Prime Contractor}
{Mail to Name}
{Mail to Address 1}
{Mail to Address 2}
{City} {State} {Zip}

RE: Late Medicare Cost Report

Provider Name: {DAB Name}
Provider Number: {xxxxxxxx}
Fiscal Year End: {Month, Day, Year}
Taxpayer Identification Number: {xxxxxxx}

Dear {Title} {Last Name}

This is our third letter to you noting that we have not received the cost report for {DBA Name}, provider number {xxxxxxxx} for the period ending {month/day/year}. Under Title 42 Code of Federal Regulations (CFR), Section 413.24, cost reports are due by the last day of the fifth month following the close of the provider's cost report year or 30 days after receipt of valid Provider Statistical and Reimbursement (PS & R) reports from the contractor, whichever is later. Your report continues to be late as it was due {month/day/year}.

Deemed Overpayment:

As neither cost report or payment for the deemed overpayment has been received from your facility, all interim and lump sum payments made for the fiscal period noted above continue to be deemed an overpayment and are now delinquent. The amount owed is {\$xxxxx.xx}. This amount is overdue and must be remitted to us within thirty (30) days from the date of this letter. Interest will be assessed on any portion of this amount that is not paid timely. If full payment is not received, we will take all action(s) necessary to recover the full amount owed.

Suspension:

As your cost report has not been received timely, all payments to your facility continue to be suspended under the authority of Title 42 CFR Section 405.371(c). Payments will not be resumed until an acceptable cost report is received by us.

Interest Charges:

Interest is assessed on late cost reports and late payments under Title 42 CFR 405.378(c)(1)(v):

4. Cost reports reflecting an amount due the Medicare program must include the amount owed (including interest) from the day following the due date of the cost report to the date that the cost report is filed.
5. If a late cost report reflects that there is an amount due Medicare and the full amount owed (including interest) is not included with the cost report, interest will continue to accrue on the overpayment until it is paid in full.
6. Additionally, when it is determined that an additional overpayment exists on a late filed cost report, through interim settlement or NPR) interest will be assessed on the overpayment from the day following the date the cost report was due to the date the overpayment is paid. If the full amount is not paid, any partial payments will be

applied first to accrued interest and then to principal. After each partial payment, interest will continue to accrue on the remaining principal balance.

Interest Computation:

The interest rate in effect at the time your cost report was due is {xx.xxx%}. This rate is applicable to any overpayments related to the untimely filing of your cost report. Under Title 42 CFR Section 405.378, interest charges are assessed *in* thirty days periods. Interest charges for a thirty (30) day period are calculated by multiplying the principal amount due by the interest rate and then dividing by twelve (12). *A* debt that is paid thirty-one (31) days late is assessed *one (1)* full thirty-day period.

Cost Report Submission:

Please attend to this matter immediately by mailing a copy of this letter together with: (1) A completed cost report together with any amounts due (principal and interest), (2) A complete refund of all interim payments, the deemed overpayment (principal and interest), within thirty days of the date of this letter. Checks are to be made payable to {Contractor}. They and/or your remittance advice should be annotated with your provider name, number, and cost report year end that applies to the amount due.

{Prime Contractor}
{Division or Group}
{Routing, Room Number}
{Mail To Address 1}
{Mail To Address 2}
{City, State, Zip}

As you are aware, cost reports are subject to further review. There could be additional adjustments required after completion of a review. Therefore, the records supporting this report are to be retained for at least three (3) years.

As we informed you previously, If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding, Medicare financial obligations will be resolved in accordance with the applicable bankruptcy process. Accordingly, we request that you immediately notify us about this bankruptcy so that we may coordinate with both the Centers for Medicare and Medicaid Services and the Department of Justice so as to assure that we handle your situation properly. If possible, when notifying us about the bankruptcy please include the name the bankruptcy is filed under and the district where the bankruptcy is filed.

Termination of Medicare Provider Agreement:

Please be advised that under Title XVIII, Section 1866(b)(2)(A) and (C) of the Social Security Act, continued failure to submit the required cost report may result in the termination of your Medicare provider agreement. However, termination of a provider agreement in no way abrogates the responsibility of the facility to file a cost report, repay an overpayment, or to comply with the Medicare law, regulations, and instructions applicable to the period when the facility was participating.

If you have submitted a cost report and any payment due Medicare please disregard this letter. If you have any questions concerning this letter, please call _____ at _____.

Sincerely,

Name and title

30.3 - Interest Accruals

(Rev. 41, 04-30-04)

NOTE: Effective October 1, 2004, 42 CFR 405.378 was amended to change how interest is calculated on Medicare overpayments and underpayments to providers, suppliers, and other health care entities. This change also applies to Medicare Secondary Payer (MSP) recoveries. Under the new rule, interest is assessed for each full 30-day period that payment is not made on time. This change applies to Medicare overpayments and underpayments determined (and MSP debts established) on or after October 1, 2004 (the effective date of the final rule). Unliquidated debts determined prior to October 1, 2004 will continue to use the former interest calculation method (a period of less than 30 days is considered to be a full 30-day period) until paid in full.

Reminder: The date of the demand letter (not the day after) is the first day of the first 30-day period.

A. Accrual of Interest; Timely filed Cost Report/Part B Overpayment Determination

Interest will accrue from the date of the final determination and will either be charged on the overpayment balance or paid on the underpayment balance for each **full** 30-day period that complete liquidation is delayed.

Generally, interest charges on an overpayment begin to accrue on the date the FI issued an NPR and/or the date the FI or carrier issued a notice of final determination of an overpayment, along with a written demand for payment. If the overpayment is paid in full within 30 days from the date of determination the interest accruals are normally waived.

Note: The standard systems generally post interest on a monthly basis. Interest is assessed at the end of 30-day periods. If the payment is postmarked on or before the 30th day any interest accrual is waived or zero-balanced in the system.

Cost Report Overpayment-Example of Interest Accrual- The provider with a FYE 08/31/04 submits a cost report on 01/28/05, showing \$10,000 due the program, payment in full accompanies the cost report. On 02/15/05, the intermediary completes the desk review and determines an additional \$25,000 overpayment. On 02/15/05 the first demand letter is sent. The provider does not pay the \$25,000 additional overpayment until 04/03/05 (45 days after the date of the initial demand letter). Interest, therefore, accrues on the \$25,000 for **one** full 30-day period.

Physician/Supplier Overpayment-Example of Interest Accrual- The carrier discovers that an overpayment for \$795.45 exists and sends a demand letter on 12/01/04. The *physician/supplier* does not remit payment on the overpayment until 01/15/05 (45 days after the date of the initial demand letter). Therefore, interest accrues on the \$795.45 for *one* full 30-day period.

Physician/Supplier Overpayment – Example of Interest Accrual Prior to 10/01/2004 – The carrier discovers that an overpayment for \$795.45 exists and sends a demand letter on 09/30/04. (The determination date of this overpayment is prior to the effective date of the revision to 42 CFR 405.378). The provider does not remit payment on the overpayment until 11/14/2004 (45 days after the date of the initial demand letter). Therefore, interest accrues on the \$795.45 for two full 30-day periods.

Example of Waiver of Interest- Overpayment Paid in Full within 30 days from the date of determination- The FI/Carrier determines and demands an overpayment on *11/03/04* for \$1500.00. The provider remits payment of \$1500.00. The postmark date on the payment is *11/30/04*. Any interest accrual is waived since the overpayment was paid in full within 30 days of the date of determination.

B. Accrual of Interest; Untimely Filed Cost Reports, Regarding Final Determinations at §30.1.

Interest always accrues for any overpayment on a late filed cost report for the period of delinquency when an overpayment is declared or determined by CMS. The overpayment may appear on the cost report, or may be determined later (including increases to overpayment, see example 2 below) through desk review or audit. Interest accrues during the period a cost report remains unfiled beyond the due date. Interest is assessed for the period of time the cost report was unfiled even if the overpayment is satisfied at the time of the delayed filing of the cost report. This interest assessment is due and payable following the notice of a final determination. The interest rate will be the rate in effect as of the day following the due date of the cost report.

On any subsequent determination that increases the overpayment on a cost report filed untimely, the additional overpayment is also subject to accrued interest charges for the period the cost report was due until the date filed. The interest rate will be the rate in effect as of the day following the due date of the cost report.

Where desk review, audit or reopening determinations increase the originally filed and declared overpayment, the revised overpayment also is subject to the general provisions governing interest on overpayments from the date of the new or revised notice of final determination. These interest charges will be in addition to the interest charges due for the period of time the cost report remained unfiled.

Examples of Application when cost report not filed on time—

1. The provider submits its cost report 70 days late and pays the declared overpayment of \$50,000 when filing. Interest at the prevailing rate accrues from the due date until the date filed, or, in this case, *two* 30-day periods *as only two full 30-day periods have passed*. Interest is assessed during the period of delinquency whether or not payment accompanies the cost report.

The intermediary performs a desk review and determines an additional overpayment of \$12,000. Interest, at the prevailing rate at the time the cost report became overdue is assessed on the \$12,000 for the *two* 30-day periods of delinquency. In addition, interest accrues at the current prevailing rate on the \$12,000 if payment is not made within 30 days of the date of the initial demand letter.

2. A provider with FYE 6/30/04 has a cost report that is due on 11/30/04. The cost report became overdue on 12/01/04. On 01/15/05 the cost report was submitted indicating an amount due the program; payment did not accompany the report. Due to the late submission of the cost report, interest is assessed for *one* 30-day period. The interest rate assessed is the rate in effect on the day the cost report became overdue, 12/01/04. In addition interest, at the rate in effect on the day the cost report became overdue, will accrue on the declared overpayment from the date the cost report is filed to the date the amount due is paid.

On 03/12/05, the intermediary completes a desk review and determines an additional overpayment, issuing a NPR and demand letter. Interest will be assessed on this additional amount at the rate in effect on 3/12/05. In addition interest will be assessed for the period of delinquency at the rate in effect on the day the cost report became overdue, 12/01/04.

C. Accrual of Interest; Rejected Cost Report

In terms of interest accrual, a rejected cost report is treated like an unfiled cost report. If a cost report is officially rejected by the contractor, (see Audit and Reimbursement section to determine when to reject a cost report) interest accrues on the determined overpayment amount from the date the cost report is due until the date the cost report is resubmitted with payment in full. The determined overpayment amount is the amount due the program on the accepted cost report. If a cost report is submitted with payment in full and is later rejected the accrual of interest depends on the determined overpayment amount on the accepted cost report. If the determined overpayment amount on the accepted cost report was paid in full by the original submission, no interest accrues. If the determined overpayment amount is different than the overpayment amount listed on the original rejected cost report, interest will accrue on the difference.

Example of Interest Accrual When the Cost Report is Rejected

1. A provider submits the cost report with payment in full before the due date. Upon review the contractor rejects the cost report. The provider corrects the cost report and resubmits it. The contractor accepts the revised cost report. The amount due the program on the revised cost report is equal to the check that accompanied the original cost report. Since the check fulfilled the determined overpayment on/ before the due date, there is no interest accrual.

2. A provider submits the cost report with payment in full before the due date. Upon review the contractor rejects the cost report. The provider corrects the cost report and resubmits it. The contractor accepts the revised cost report. The amount due the program on the revised cost report is different than the amount of the check that was submitted with the original cost report. The provider sent in a check for the additional amount with the revised cost report. Since the check with the original cost report was not the

determined overpayment amount, interest accrues on the difference between the check and the overpayment listed on the revised cost report. The interest rate is the rate that was in effect on the day the cost report was due.

D - Underpayments

Generally interest charges on an underpayment begin to accrue upon the FI's or carrier's issuance of:

- An NPR (FI only) and a notice of final determination of an underpayment under §30.1.
- A notice of final determination of an underpayment under §30.1 when an NPR is not issued.
- An Administrative Law Judge (ALJ) or hearing officer's decision that reduces the amount of an overpayment below the amount that CMS has already collected. Interest begins to accrue once the underpayment amount has been determined. This may be at the decision time if the ALJ reverses the entire overpayment amount or the ALJ states a principal amount to be paid upon which interest may be calculated. However, if the ALJ does not specify the overpayment amount and recalculations are necessary (not including a full reversal of the overpayment amount) interest will begin to accrue at the time of the recalculations. If the FI/Carrier is unsure when interest should accrue for a particular case, the servicing regional office should be contacted.
- An Intermediary Hearing or a Provider Reimbursement Review Board (PRRB) decision that reduces the amount of an overpayment below the amount that CMS has already collected.

However, no interest will be due and payable to a provider if the FI or carrier pays the underpayment within 30 days from the date of notice of final determination of the underpayment. Interest will accrue each 30-day period on the underpayment balance that has not been satisfied.

30.4 - Procedures for Applying Interest During Overpayment Recoupment

(Rev. 41, 04-30-04)

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 two consecutive installment payments** 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 is delinquent 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 FI/Carrier 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 FI/Carrier controls if any other mailing service was used.

30.5 - Notification to Providers Regarding Interest Assessment

(Rev. 41, 04-30-04)

A – Cost Report Reminder Letters

The FI is required to issue reminder letters to a provider of the time limitation for filing the cost report when the institutional provider fails to file by the last day of the fourth month following the end of the cost report period. In addition to the requirements outlined in Chapter 3, §30 and Chapter 4, §20 the FI must include the following in a cost report reminder letter:

1. **Late Filing Interest-** If a cost report is not filed on time and indicates an amount is due CMS, or if it is subsequently determined that an additional overpayment exists, such as when an NPR is issued, interest will be assessed on the overpayment from the due date of the cost report to the date the cost report was filed. This interest assessment is made regardless of whether the overpayment is liquidated within 30 days.

2. Assessed Interest- If a cost report is filed on time and indicates an amount is due CMS, interest will accrue on that overpayment from the date the cost report is due, unless full payment accompanies the report or the provider and the contractor agree in writing, in advance, to recoup the amount of the overpayment from interim payments over the next 30-day period.

B - Notice of Program Reimbursement (NPR)

In addition to the requirements outlined in audit instructions, all NPRs issued after September 3, 1982, must include the following:

"In accordance with the procedures of 42 CFR 405.378ff interest will be assessed on the amount due CMS unless full payment is made within 30 days from the date of the Notice. Interest will be assessed for each *full* 30-day period that payment is delayed."

C - Overpayment Demand Letters

In addition to the requirements of Chapter 4, §20 and §90 the FI and Carrier's written demand for repayment must contain a notice that in accordance with 42 CFR 405.378, interest shall be assessed on all overpayments at the prevailing rate specified by the Secretary of the Treasury unless repayment is made within 30 days. Interest shall be assessed for each *full* 30-day period that payment is delayed and shall accrue from the date of the final determination. The demand letter shall include the appropriate interest rate that will be assessed if payment in full is not received within 30 days.

30.6 - Waiver and Adjustment of Interest Charges

(Rev. 41, 04-30-04)

A - Waiver of Interest Charges

Interest charges shall be waived if the overpayment is completely liquidated within 30 days from the date of final determination, or if the contractor or the RO determines that the administrative cost of collection would exceed the amount of interest.

For institutional providers serviced by FIs, interest shall not be waived for the period of time during which the cost report was due but remained unfiled as specified in Chapter 4, [§30.1](#). Also, interest shall not be waived where a cost report is timely filed indicating an amount due CMS and is not accompanied by payment in full as specified in Chapter 4, [§30.1](#) unless the provider and the FI agree in advance to liquidate the overpayment through a reduction in interim payments over the next 30-day period.

For bankrupt providers and interest see Chapter 3, §140.

B - Adjustment of Interest Charges

1 – Reopenings-FI

When the FI reopens a final settlement pursuant to 42 CFR 405.1885 - 1887(a) and such reopening reverses some or all adjustments, whereby the previous overpayment is reduced or eliminated, it makes an appropriate adjustment to previously assessed and recovered interest to reflect the proper interest chargeable under 42 CFR 405.378 and the policies set forth.

Should the reopening action establish or increase an overpayment, the rate of interest on the additional or new overpayment is the rate in effect as of the date of the new notice of final determination.

If the original cost report was not submitted timely, any reopening action, which results in an adjustment to the previously determined overpayment, shall also include an appropriate adjustment to the late filing interest assessment.

2 - FI and Provider Reimbursement Review Board Hearings - Institutional Providers Serviced by FIs

If an overpayment or underpayment determination is reversed administratively by the FI or by the PRRB, and the reversal is the final decision in the case, it is necessary to recalculate the correct amount of interest to be assessed. If any excess interest or principal has been collected, the FI refunds it to the debtor. No interest accrues on the refunded amount unless payment is not made within 30 days from the date of notification of the corrected overpayment or underpayment amount.

If the hearing results in an additional overpayment, the FI assesses interest on the additional amount at the rate in effect on the date of the revised final determination.

Interest does not accrue until the FI notifies the provider of the revised overpayment or underpayment amount.

Example of Application.--

A. On 07/18/05, the intermediary completes a final settlement and issues a NPR and a written demand showing an amount due the program of \$16,000. On 09/15/05, the provider pays the \$16,000 overpayment plus *one* 30-day period of accrued interest.

As a result of a hearing on 12/10/05, the PRRB reverses the intermediary's findings and determines that the correct amount due the program was \$4,000. The excess \$12,000 in principal and the accrued interest on \$12,000 that was assessed and collected must be returned to the provider.

3 - Judicial Review

The policies and procedures of this section do not apply to the time period for which interest is payable under 42 CFR 413.64(j) because the provider seeks judicial review of an adverse decision by the PRRB or the decision of the Administrator. Section 1878(f) of the Social Security Act authorizes a court to award interest in favor of the prevailing party on any amount due as a result of the court's decision. The interest is payable for the period beginning on the first day of the first month following the 180-day period which began on either the date the intermediary made a final determination or the date the intermediary would have made a final determination had it been done on a timely basis. The interest rate assessed is the rate on obligations issued for purchase by the Federal Hospital Insurance Trust Fund. This rate of interest can be found at <http://cms.hhs.gov/statistics/trust-fund-interest-rates/>. If the FI withheld any portion of the amount in controversy prior to the date the provider seeks judicial review by a Federal court, and the Medicare program is the prevailing party, interest is payable by the provider only on the amount not withheld. Similarly, if the Medicare program seeks to recover amounts previously paid to a provider, and the provider is the prevailing party, interest on the amounts previously paid to a provider is not payable by the Medicare

program since that amount had been paid and is not due the provider. However, if the Medicare program had recovered any of the amount in controversy interest would be payable from the time of recovery through the date of payment.)

EXHIBIT 1 - INITIAL DEMAND LETTER TO PHYSICIANS/SUPPLIERS

(Rev. 41, 04-30-04)

Dr. Joe Smith
Anywhere St
Anytown, State ZIP Code

Date

Dear Dr. Smith:

Contractors should use the appropriate paragraph:

"This is to let you know that you have received Medicare payment in error which has resulted in an overpayment to you of \$_____ for services dated _____. The following explains how this happened."

or

"We appreciate your recent inquiry regarding Medicare payment that you believe was paid to you in error. We thank you for bringing this overpayment to our attention."

or

"We have received your check in the amount of \$_____. We thank you for bringing this overpayment to our attention. While we appreciate you submitting payment to us, our review found that the overpaid amount was \$_____. Please remit the additional \$_____."

How this overpayment was determined:

NOTE: This paragraph should include a clear explanation of how the overpayment arose, the amount of the overpayment, how the overpayment was calculated, and why the original payment was not correct.

Why you are responsible:

NOTE: For medical necessity determinations, the carrier shall insert appropriate paragraphs. It shall be sure to give an 1879 determination for each claim as well as the regulatory and statutory references for the 1879 determination.

You are responsible for being aware of correct claim filing procedures and must use care when billing and accepting payment. In this situation you billed and/or received payment

for services you should have known you were not entitled to. Therefore, you are not without fault and are responsible for repaying the overpayment amount. If you dispute this determination please follow the appropriate appeals process listed below.

(Applicable Authorities: Section 1870(b) of the Social Security Act; §§ 405.350 - 405.359 of Title 42, §§ 404.506 - 404.509, 404.510a and 404.512 of Title 20 of the United States Code of Federal Regulations.)

What you should do:

Please return the overpaid amount to us by _____(date) and no interest charge will be assessed. Make the check payable to Medicare Part B and send it with a copy of this letter to:

Carrier Address

If you do not refund in 30 days:

In accordance with 42 CFR 405.378 simple interest at the rate of __ will be charged on the unpaid balance of the overpayment beginning on the 31st day. *Interest is calculated in 30-day periods and is assessed for each full 30-day period that payment is not made on time.* Thus, if payment is received 31 days from the date of final determination, *one* 30-day period of interest will be charged. Each payment will be applied first to accrued interest and then to principal. After each payment interest will continue to accrue on the remaining principal balance, at the rate of __ .

We request that you refund this amount in full. If you are unable to make refund of the entire amount at this time, advise this office immediately so that we may determine if you are eligible for a repayment plan. (See enclosure for details.) Any repayment plan (where one is approved) would run from the date of this letter.

If payment in full is not received by, (specify a date 40 days from the date of the notification), payments to you will be withheld until payment in full is received or an acceptable extended repayment request is received. If you have reason to believe that the withhold should not occur on _____ you must notify <contractor> before __. We will review your documentation, but will not delay recoupment. This is not an appeal of the overpayment determination.

If you wish to appeal this decision:

If this overpayment is less than \$100, you may request a review. This request must be made within 120 days from the date of this letter. Please send your request for review to:

Address of Review Department

If this overpayment is \$100 or more, you may request a fair hearing. This request must be made within 180 days from the date of this letter. Also, you may combine claims to meet the \$100 minimum for a hearing. However, the dates of the determination letters must all be within six months of the hearing request in order for the amount in controversy to be included in the \$100 minimum. If you would like to request such a hearing, please notify us in writing at:

Address of Hearings Department

If you have filed a bankruptcy petition:

If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding, Medicare financial obligations will be resolved in accordance with the applicable bankruptcy process. Accordingly, we request that you immediately notify us about this bankruptcy so that we may coordinate with both the Centers for Medicare & Medicaid Services and the Department of Justice so as to assure that we handle your situation properly. If possible, when notifying us about the bankruptcy please include the name the bankruptcy is filed under and the district where the bankruptcy is filed.

Should you have any questions please do not hesitate to contact _____ at _____.

If we can assist you further in the resolution of this matter, we shall be glad to do so. We expect to hear from you shortly.

Sincerely,

(name and title)

Enclosure