Program Memorandum Intermediaries

Services (DHHS)
Centers for Medicare

Department of Health & Human

Medicaid Services (CMS)

Date: MARCH 27, 2002

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Transmittal A-02-023

This Program Memorandum re-issues Program Memorandum A-01-55, Change Request 1683 dated April 26, 2001. The only change is the discard date; all other material remains the same.

CHANGE REQUEST 1683

This Program Memorandum (PM) supercedes Change Request 1260. For debts eligible for cross servicing, the instructions contained herein supercede instructions in the Medicare Intermediary Manual, Part II, Chapter 3, Subsection 2227, Referral to RO of Potentially Uncollectible Provider Overpayments.

SUBJECT: Accelerated Referral of Non-MSP Active Delinquent Debts to the Debt Collection Center (DCC) for Cross Servicing and Treasury Offset Program (TOP)

The instructions contained in this PM do not require nor does CMS request intermediaries to make changes to their standard systems.

Background

The Debt Collection Improvement Act of 1996 (DCIA) requires Federal agencies to refer eligible delinquent debt to a Treasury designated Debt Collection Center (DCC) for cross servicing and offset through the TOP. CMS is mandated to refer all eligible debt, over 180 days delinquent, for cross servicing/TOP. CMS has the option of referring such debt before it is 180 days delinquent, but is required to refer all eligible debt that is more than 180 days delinquent.

Per DCIA referral criteria, "delinquent" is defined as debt: (1) that has not been paid (in full) by the date specified in the agency's initial written notification (i.e., the agency's first demand letter), unless other payment arrangements have been made, or (2) that at any time thereafter the debtor defaults on a repayment agreement. Debt ineligible for referral include those: (1) in bankruptcy status, (2) in an appeal status (pending at any level), (3) under fraud and abuse investigation, (4) at the Department of Justice, or (5) where the debtor is deceased.

Since 1998, CMS referred over \$2.0 billion in delinquent debt for cross servicing/TOP. However, not all delinquent debt that is eligible for cross servicing has been referred.

CMS is committed to send an additional \$2.0 billion of eligible delinquent debt to the DCC for cross servicing by the end of fiscal year (FY) 2001, and 100 percent by the end of FY 2002. To meet this goal, CMS will need the cooperation and assistance of intermediaries and regional offices (ROs).

NOTE: This PM is the first in a series of instructions for debt referral. It does not address:

- Beneficiary debt (where the debtor is the beneficiary),
- Debt less than \$25 (principal balance). (These debts are ineligible for referral for cross servicing.)

- Intermediary claims adjustments, "fiscal intermediary claims adjustments" are further defined as those claims adjustments that are not individually identified on the Provider Overpayment Reporting (POR) system. CMS needs to better understand the character of these debts prior to making a decision regarding referral.
- Debts that are not presently individually captured in the (POR) system. Debts approved and reported as Currently Not Collectible (CNC). These debts will be addressed in future instructions.

Debt Selection

This PM requires implementation on both an ongoing and "catch up" basis. Intermediaries routinely send three demand letters. For purposes of this PM, the third demand letter is considered the final demand letter. To comply with DCIA, intermediaries will include the "intent to refer" language in their final demand letters for all eligible debt. "Final demand letter" is defined as the last letter you routinely send to debtors to request payment.

To allow you to "catch up" on referral of delinquent debt for debts that are over 90 days delinquent, and the "intent to refer" letter was not sent, an additional letter will be sent, which will be the "intent to refer" letter. You will develop reports from either their internal systems or the POR system to select debts that will need the additional letter. Instructions for producing these reports from the POR system using the Ad hoc Report Management System, ARMS, will be forwarded under separate cover.

You will, on an ongoing basis and until the "catch up" process is completed, produce reports of delinquent debts eligible for referral.

Debt Collection Improvement Act of 1996 (DCIA) Language/Intent Letter

You must change their final demand letters to incorporate DCIA language. This letter is referred to as the "intent to refer" letter. The specific language to be contained in the letter is attached (Attachment 1 - DCIA Language). The "intent to refer" letter will be sent if no payments or offsets are received on the overpayment, or if only partial recoupment was received." The "intent to refer" letter should be the final letter sent by the intermediary prior to referring the debt for cross servicing.

When appropriate, the "intent to refer" letter must include the amount of interest due, along with the date of the last interest accrual. Intermediaries may add additional wording to this letter that will provide additional instructions or clarification regarding the recoupment of the overpayment.

The "intent to refer" letter should be signed by a contractor official who routinely signs the demand letters to the debtors."

Intermediaries who cannot systematically generate the DCIA letter may use PC-based software (i.e., Microsoft Word, Word Perfect) to prepare the intent letter and comply with the provisions contained in this PM.

The "intent to refer" letter will not be sent for the debts excluded from this PM. Demand letters sent for these debts will not include the "intent to refer" language.

Response to DCIA Letter

Intermediaries will answer any inquiries received as a result of the DCIA "intent to refer" letter.

If there is no response to the "intent to refer" letter within 60 days, you will input the debt information into the Debt Collection System (DCS). Debts for which less than full payment had been received by the intermediary, or there is a current repayment agreement that is in default are eligible for referral to the DCC. Where there has been a **partial** recoupment or collection, but no request from the debtor for a repayment agreement was received, the balance must still be referred

to the DCC. Before inputting a debt to DCS, you should determine if the debt should be sent for litigation rather than cross servicing. If it is determined that the debt should be litigated, and not referred to DCC for cross servicing, you should contact the RO for further action.

POR Updates

When the intent to refer letter is sent, you will change the status code on the POR to "AQ," (Pending Referral for Cross Servicing/TOP). The location code on the POR will remain "INT". It is imperative that the status codes in the POR be updated, because CMS Central Office (CO) will use these codes to monitor the progress of attaining the projected debt referral goals, and ensure consistent intermediary compliance.

If, after sending the "intent to refer" letter, the debtor contacts the intermediary and an extended repayment agreement is being negotiated or is approved, the status code in the POR will change to reflect the new status of the debt.

Debt Collection System (DCS)

After 60 days, if there is no response to the intent to refer letter, intermediaries will input the debt information into the DCS database. This input will "certify" the debt as valid, legally enforceable, and ready for referral. The DCS system is used to transmit and track debts at the DCC.

The DCS database is accessed through the CMS Data Center and is limited to authorized users. Instructions for DCS access and data entry are forwarded under separate cover.

These instructions:

- Provide step-by-step guidance on entering a debt into the system;
- Define each field in the system; and
- Provide explanations of the screen used for updating the debt amount and status.

To enable immediate access upon receipt of the instructions for DCS, intermediaries are requested to e-mail Debbie Parzynski, CO (dparzynski@cms.hhs.gov), with the names and user IDs of the staff who will be performing the data entry. The user ID is the same one used for access to the POR. Send this information immediately so that users at your location will have access to DCS.

You will be given access to the DCS and will input certified debts directly to the database. When inputting the debt into the DCS, the status code used will be "UU" except for debts where the "intent to refer" letter was undeliverable. In this case, a status code of "UN" will be input. ("UU" = initial entry of the debt for referral; "UN" = undeliverable letter).

Actions Subsequent To DCS Input

Once the debt is referred to the DCC, active collection efforts by the intermediary, the RO, and/or CMS must cease. However, debts transmitted to DCC must still be maintained in the intermediaries internal systems for possible internal offset and interest must continue to accrue on these debts.

The intermediary inputs/enters the debts into the DCS database using "UU" or "UN." Once CO changes the status code to "UJ", the debt has been referred to the DCC for further collection efforts. (Status code "UJ" means that responsibility for pursuing the debt is at the DCC.)

Each week, CMS will generate a report of the debts transmitted to DCC that week and send the report to the intermediary. The intermediary will review the report to ensure that debts transmitted remain valid and amounts are accurate. Interest amounts listed on the report are the amounts that were entered in the DCS and will not be updated for any interest accruals since input. Changes for additional interest accruals are not required. The intermediary will verify the report, and any changes will be annotated. The report will be signed by the chief financial officer (CFO), or his/her designee, and returned to CO within 10 calendar days of the date of the report. Specific changes to

a debt will be reported on the Recall/Adjustment Form (Attachment 2) or Collection Reconciliation/Acknowledgement Form (Attachment 3), as appropriate. **Once the debt is referred to DCC, only CO will update the POR and DCS.**

The general rule once a debt has been referred to the DCC is as follows:

• If the intermediary discovers an error, collects (by check or recoupment), receives information establishing that the debt is ineligible for cross servicing (i.e., bankruptcy, appeal), the intermediary is responsible for updating its internal records and preparing the appropriate.

Recall/Adjustment Form or Collection Reconciliation/Acknowledgement Form. Copies of these forms and instructions for use are included as Attachments 2 and 3. The Recall/Adjustment Form will be used to recall the debt from the DCC or adjust the amount remaining at the DCC, as appropriate. The Collection Reconciliation/Acknowledgement Form will be used to recall the debt from DCC or adjust the amount remaining at DCC for collections. Intermediaries must complete these forms, as appropriate, and fax to CO, so that CO can update the POR and DCS, as appropriate, and notify DCC. CO will sign off on the Recall/Adjustment Form and/or Collection Reconciliation/Acknowledgement Form and return a copy to the appropriate intermediary for financial statement documentation.

• If the DCC discovers an error, collects, or receives information which would render the debt ineligible for cross servicing, DCC will notify CO. CO will update the DCS and POR with the appropriate adjustment/collection information and notify the intermediary via the Recall/Adjustment Form or the Collection Reconciliation/Acknowledgement Form. The intermediary will adjust or close their internal systems accordingly, and the form will be signed by the CFO or his/her designee, and returned, by fax, to CO within 10 calendar days.

Financial Reporting

Effective with this PM, intermediaries will continue to report the debt at their location for financial reporting purposes. Debts referred to the DCC after April 1, 2001will no longer be transferred on the POR to DCC location and reported by CO for financial statements. These debts will remain at the intermediary location for financial reporting. These debts will **not** be transferred out on the Form CMS 751 (Status of Accounts Receivable). CO will change the status code on the POR to "UJ" (At DCC for Collection), but the location of the debt will remain "INT."

Debts that were previously referred for cross servicing and reported by CO will continue to be reported by CO. Intermediaries must track all debts that are at DCC and be able to distinguish between debts at DCC being reported by CO from debts at DCC being reported at the intermediary location. Fiscal intermediaries must also be able to track all debts at their location and be able to distinguish between those debts reported at their location that were referred to DCC from those debts that have not been referred to DCC.

You will continue to accrue interest on a debt after the debt is entered into the DCS system. Although the DCS will not reflect this additional interest unless/until DCS is updated in connection with a collection, the DCC does continue to accrue interest on these debts for collection purposes. The additional accrued interest will be reflected in the DCS on the collection screen to the extent that such interest has been collected.

When the DCC receives collection, CMS is notified and receives the collection via an OPAC (Online Payment and Collection) system. CO will update the DCS and POR system with the appropriate collection information and furnish the collection information to the appropriate intermediary on the Collection Reconciliation/Acknowledgement Form. Intermediaries will use this form to update their internal systems. The form will be signed by the intermediary CFO or his/her designee, and returned to CO within 10 calendar days.

If the debt is being reported by CO, you will update their internal systems. CO will record the collection information on the appropriate CMS Form R751. This collection would not be a Form CMS 751 reporting item for intermediaries. If the debt is being reported at the intermediary location, you must update their internal systems and make appropriate Form CMS 751 entries. You must apply the collection to the outstanding receivable and make the appropriate entry on Form CMS 751.

Funding

Supplemental budget requests (SBRs) will be considered, as appropriate. SBRs must explain exactly what effort will be required and why it justifies additional funding. (For example, you may be able to justify temporary hires to assist with some of the clerical aspects of debt validation, mailings, while working the backlog of existing delinquent debt.) SBRs must also differentiate between requests for non-systems funding and funding for non-standard systems changes. (Although implementation may not be delayed pending any systems changes, CMS will consider systems changes to facilitate this process in the future.)

The financial workgroup for each shared system may request any systems modifications, which will assist in the automation of the requirements of this PM. While the programming for each shared system may be different, the financial workgroups must ensure that the information from these systems is uniform, accurate and complies with CMS's reporting requirements.

You should request funding for non-MSP debt referral using CAFM111 Activity Code 17150."

The effective date for this PM is April 26, 2001.

The implementation date for this PM is April 26, 2001.

These instructions should be implemented within your current operating budget.

This PM may be discarded after April 1, 2003.

If you have questions, contact Debbie Parzynski (410) 786-5435, dparzynski @cms.hhs.gov.

3 Attachments

DEBT COLLECTION IMPROVEMENT ACT OF 1996 (DCIA) REQUIRED LANGUAGE

Background

The Debt Collection Improvement Act of 1996 (DCIA) requires Federal agencies to transfer/refer debt that is 180 days delinquent to a Department of Treasury Debt Collection Center for cross servicing.

Prior to debt transfer, the DCIA requires agencies to inform the debtor of the agency's intent to refer the debt, and to provide debtor information regarding the referral process.

Attached are specific paragraphs that explain the process and debtor rights. These paragraphs must be included in the final demand letter sent to the debtor.

CMS suggests intermediaries use their own language in the opening paragraphs to explain the reason for the overpayment and the current balance, including interest accrued and the interest rate.

DEBT COLLECTION IMPROVEMENT ACT OF 1996 (DCIA) REQUIRED LANGUAGE

Subject in Bold: Notice of Intent to Refer Debt to the Department of Treasury's Debt Collection Center for Cross Servicing and Offset of Federal Payments

Contractor opening paragraphs concerning the reason for the overpayment, date of determination and amount due. May refer to previous demand letters or other forms of contact regarding the debt.

Your debt to the Medicare Program is delinquent and, by this letter, we are providing notice that your debt will be referred to the Department of Treasury's Debt Collection Center (DCC) for Cross Servicing and Offset of Federal Payments. Your debt will be referred under provisions of Federal law, Title 31 of the United States Code, Section 3720A and the authority of the Debt Collection Improvement Act of 1996.

The Debt Collection Improvement Act of 1996 (DCIA) requires Federal agencies to refer delinquent debts to the Department of Treasury and/or a designated DCC for collection through cross servicing and/or the Treasury Offset Program. Under the offset program, delinquent Federal debts are collected through offset of other Federal agency payments you may be entitled to, including the offset of your income tax return through the Internal Revenue Service (IRS).

The DCC will use various tools to collect the debt, including offset, demand letters, phone calls, referral to a private collection agency and referral to the Department of Justice for litigation. Other collection tools available, which may be used, include Federal salary offset and administrative wage garnishment. If the debt is discharged, it may be reported to the IRS as potential taxable income.

During the collection process, interest will continue to accrue on the debt and you will remain legally responsible for any amount not satisfied through the collection efforts.

For Individual Debtors Filing a Joint Federal Income Tax Return

The Treasury Offset Program automatically refers debts to the IRS for offset. Your Federal income tax refund is subject to offset under this program. If you file a joint income tax return, you should contact the IRS before filing your tax return to determine the steps to be taken to protect the share of the refund which may be payable to the non-debtor spouse.

Federal Salary Offset

If the facility ownership is either a sole proprietorship or partnership, your individual salary(s) may be offset if you are or become a Federal employee.

Medicaid Offset

As authorized at 42 CFR 447.30, (Subsection 1885 of the Social Security Act), CMS may instruct the State Medicaid Agency to offset the Federal share of any Medicaid payment due you, your agency and/or related facilities. At that time, the offset will remain in effect until the Medicare overpayment is paid in full.

Read the following instructions carefully to determine what action you may take to avoid referral for cross servicing/offset.

Due Process

You have the right to request an opportunity to inspect and copy records relating to the debt. This request must be submitted in writing to the address listed below. You have a right to present evidence that all or part of your debt is not past due or legally enforceable. In order to exercise this right, this office must receive a copy of the evidence to support your position, along with a copy of this letter. You must submit any evidence that the debt is not owed or legally enforceable within 60 days of the date of this letter. Failure to present such evidence will result in the automatic referral of the debt to the Department of Treasury's designated DCC for cross servicing/offset.

Repayment

Your debt will not be referred to the Department of Treasury if you make payment in full. The past due amount of \$\\$ owed to the Medicare Program as of includes
due amount of \$owed to the Medicare Program as ofincludes interest accrued through (Note: Intermediaries may alter this sentence to read: The past due amount owed to the Medicare Program as of the date of this letter includes current
The past due amount owed to the Medicare Program as of the date of this letter includes current accrued interest. This sentence may be omitted for debts that do not accrue interest, i.e. Unfiled Cost Reports.) Interest is accrued monthly and is added to the balance of the debt.
Your check or money order for the amount due should be made payable to:
Medicare Intermediary Address 000 Street Anywhere USA 00000-0000.
Include a copy of this letter with your payment.
If you cannot make payment in full, you may be allowed to enter into an extended repayment agreement. If you are interested in an extended repayment agreement, please contact this office.
Bankruptcy
If you have filed for bankruptcy and an automatic stay is in effect, you are not subject to offset while the automatic stay is in effect. Documentation supporting your bankruptcy status, along with a copy of this notice, must be forwarded to this office at the above address.
If you have any questions concerning this debt, please contact at
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Sincerely,

Signature of Certifying Official Official Position

Recall/Adjustment Form: (Circle Appropriate Action)

Contractor, RO or CO where debt is reported for financial statements) Part A	Collection/Adjustment Initiated by: Contractor	RO CO
Part A Part B RO	Continu 1 Dobt	Information
Part A Part B RO	Location of Δ/R :	RO or CO where debt is reported for financial
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Fax #		
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Fax #	Title/Location/Date	Fitle/Location/Date
Phone # Phone #	Fax #	Fax #
	Phone #	Phone #

Recall/Adjustment Form:

This form must be completed whenever there is a change to a debt that has been input in DCS. Changes include data entry items, such as address of debtor, etc., adjustments to balance due to errors, etc., and changes in status code. (Collections will be reported on the Collection Reconciliation/Acknowledgement Form, Attachment 3.)

Either CO, RO, or Medicare Contractors initiate the form.

Section 1. **Debt Information**, must be filled out for all debts.

Section 2. Reason for Recall/Adjustment,

A. New Status is completed whenever a status change to a debt occurs.

B. Other Adjustment is completed for all other debt adjustments/recalls.

Section 3., **CO** Actions will be completed by CO. Section 4., **Notification/Acknowledgement/Acceptance**, is completed by the initiating location and the accepting location.

To complete the form: Circle either "Recall" or "Adjustment" on the form title.

Indicate the location of the initiator of the form. Either RO or CO or Contractor.

In **Section 1. Debt Information**, enter the Location of A/R: (where the debt is reported for 751 purposes) Section 1 is divided into Part A and Part B. Complete the appropriate information.

RO – Indicate the RO number for the contractor servicing the debt

Contr # - Indicate the contractor number

Debt # - Enter the POR or PSOR number

Transmit Date: Enter the date the debt was transmitted to DCC. **DCS Principal Amt. Referred** – Enter this amount from the DCS Data Entry Screen

DCS Interest Amt. Referred – Enter this amount from the DCS Data Entry Screen

CNC: Indicate if this debt was approved and reported as CNC

Enter specific information for either: **POR** overpayments: Cost Report Date, Overpayment **Determination Date** and, or **PSOR** overpayments: Claim Number, Claim Paid Date, O/P **Determination Date.**

Section 2, Reason for Recall/Adjustment, will be completed to document the reason for the Recall or Adjustment.

Subsection A, New Status, is for recalling debts due to a change in status. The debt is no longer eligible for cross servicing. Check the appropriate reason for the recall and enter the amount of principal and interest to be recalled. Enter the new status of the A/R and the quarter ending date that the new status will be identified for financial statement purposes.

Subsection B, Other Adjustment, is for reporting all other adjustments to the debt that will require either recall from DCC or notification to DCC of new amount/information. If the adjustment/recall changes the debt amount, indicate the amount to be recalled/adjusted.

Section 3. CO Actions, will be completed by CO to show that the appropriate CMS systems have been updated to reflect the change. If the contractor or RO initiates this form, Section 3. Will be left blank and sent to CO. CO will complete Section 3, sign the form and return to the originating office. If the form is originated by CO, Section 3 will be completed prior to sending the form to the contractor or CMS RO.

Section 4. Notification/Acknowledgement/Acceptance. The form must be signed by both the initiating office and the accepting office. The contractor CFO or designee must sign the form.

Collection Reconciliation / Acknowledgement Form

(1)	Location of A/R:			
(2)	Location of Collectio	n:		
(3)	Region	Contra	ctor #	_
(4)	Provider/Privsician/N	upplier Number	Claim Paid Date:	
	MSP Accounts Recei Debtor Name: HIC # / Report ID Determination Date:_ Beneficiary Name:			
(5)	Was debt in CNC star	us prior to this collec	etion?(Yes/No)	
(6)	Date of Collection (P	ostmark or OPAC Da	nte)	
(7)	Amount of Collection Amount Applied to P	1 \$ rincipal \$	eck/cash/offset)	
(8)	Collection Reported and A/R Adjusted in Quarter Ending:			
(1)	Debt to Be Recalled from DCC?Yes/No If Yes, DCC Notified: Note: If Non-MSP, CO will notify DCC			
(2)	Is collection part of a	r Non-MSP, CO will n approved Extended	notify DCC Repayment Agreement?	Yes/No
(3)	POR/PSOR Updated by : Note: If non-MSP Debt at DCC – CO will update POR/PSOR			
(4)	If debt at DCC: DCS Note: If non-MS	Updated bySP Debt at DCC – CC	Useri O will update DCS	id:
Coll Loc Date	nature of Official at Lo lection Information Ini ation: e: ne:	tiated	Signature of Official a Where Collection Info Location: Date: Phone:	ormation Accepted

Non-MSP Instructions for Completing Collection Reconciliation/Acknowledgement Form:

<u>For CO Collections from DCC</u>: This form will be completed whenever a collection is received on a debt being reported at another location or is being cross-serviced by DCC.

CO will use this form to notify contractors and regional offices when a collection is received by the DCC for non-MSP debts. If CMS was reporting this debt on its Form CMS 751, CO will record the collection and adjust the appropriate account receivable. CO will notify the contractor so that the contractor's internal records can be adjusted for the collection.

If CO receives a collection on a debt at DCC and the debt is being reported on the contractor Form CMS 751, CO will notify the contractor so that the contractor's internal records can be adjusted for the collection **and** the contractor will report the adjustment to the A/R on the contractor's appropriate Form CMS 751. In this instance, CO will record the collection on its Form CMS 751, but will not adjust the A/R.

For Contractor Collections for Debts at DCC: If contractor receives a collection on a debt at DCC, contractor will initiate this form to notify CO of the collection. If the A/R is being reported at the contractor location Form CMS 751, the contractor will record the collection and A/R adjustment on the contractor's Form CMS 751 and complete the form to notify CO. CO will notify DCC of the collection. If collection results in the overpayment being paid in full or is the result of an extended repayment agreement being collected at the contractor location, CO will recall the debt from DCC.

If contractor receives a collection on a debt at DCC and the A/R is being reported on the Form CMS 751 or the RO Form 751, the contractor will use this form to notify the CO of the collection and CO will update the appropriate Form CMS 751 to adjust the A/R. Contractor will report the collection on the appropriate line of contractor's 751 to identify receipt of the collection.

If contractor receives a collection on a debt at DCC and the A/R is being reported on the RO Form 751, contractor will use the form to notify **both** CO and RO. Contractor will report the collection on the appropriate line of the contractor's Form CMS 751 to identify receipt of the collection, but contractor will **not** adjust the A/R for the collection.

<u>For RO collections:</u> ROs will use this form to notify contractors and CO, as appropriate, for all collections received at their location.