
Program Memorandum Intermediaries

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

Transmittal No. A-02-006

Date: JANUARY 31, 2002

This Program Memorandum re-issues Program Memorandum A-99-47, Change Request 975 dated November 1999. The only change is the discard date; all other information remains the same.

CHANGE REQUEST 975

SUBJECT: Extended Repayment Schedules (ERSs) for Home Health Agencies (HHAs) Affected by the Interim Payment System (IPS)

This further expands our previous instruction (Program Memorandum Transmittal No. A-99-25) to you in which we permitted HHAs the use of expanded ERS guidelines to repay IPS debts. The following instructions apply to both free standing and hospital-based HHAs and are applicable for those HHAs that incurred excess payments resulting from IPS which was authorized by the Balanced Budget Act of 1997 (BBA). For purposes of this Program Memorandum, HHA IPS debts are payments that exceed the applicable IPS per beneficiary limits or IPS cost per visit limits, which are determined based upon interim rate adjustments or upon cost report determinations. Conversely, this Program Memorandum does not apply to non-IPS debts. Non-IPS debts are overpayments that occur when the payments to the HHA exceed its total allowable costs, and its total allowable costs are below both the IPS per beneficiary limits and the IPS per visit limits. For example, the provider's payments were \$100,000, the per beneficiary limit was \$90,000, the per visit limit was \$80,000 and the provider's total allowable costs were \$70,000. The provider would have a \$30,000 non-IPS overpayment.

Medicare debts resulting from IPS adjustments are creating significant financial hardship for some HHAs. Therefore, we believe that it is appropriate to offer HHAs additional relief to help agencies adapt to the BBA changes. In accordance with the President's Plan to Modernize and Strengthen Medicare for the 21st Century, we are increasing the time for repayment of excess payments related to the IPS. If the HHA believes that an ERS is necessary for the repayment of an IPS debt, the HHA may pursue the new options below. These options for repayment apply to HHA IPS debts that are determined based upon interim rate adjustments or upon cost report determinations for the two cost report years beginning in fiscal years 1998 and 1999. IPS became effective for cost reporting periods beginning on or after October 1, 1997.

(1) By filing a written request, the HHA may request and will be automatically approved by its intermediary for a 36 month ERS for an IPS excess payment determination (based on either an interim rate adjustment or a cost report determination). The 36 month ERS will not be subject to meeting financial needs criteria and will not be subject to the assessment of interest for the first 12 months. The ERS for interim rate IPS adjustments and for IPS cost report determinations will have interest assessed on the latter 24 months. Interest assessment is further explained below with respect to IPS interim rate adjustments and IPS cost report determinations. This IPS repayment option is also available for HHAs that have an ERS that was previously approved for less than 36 months and for HHAs that defaulted on ERSs that were established for less than 36 months. HHAs that defaulted on ERSs may be granted the additional months up to 36 months from the date of the notice to repay the IPS debt. HHAs which have defaulted on a previous ERS for an IPS debt do not have to be current in their monthly payments to receive the additional months. However, the automatic 36-month ERS is not available to HHAs that have terminated their Medicare provider agreement. HHAs that have terminated Medicare participation will be subject to the existing ERS procedures outlined in the Medicare Intermediary Manual, Part 2, §§2223 and 2224, and the Provider Reimbursement Manual, Part 1, §§2409ff. All ERSs approved under these new options will run from the date of the initial demand letter for repayment of the debt; that is, providers would not get an additional 36 months if they already had a repayment schedule in place, but would get up to 36 months without the need to meet the financial criteria.

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(2) By filing a written request, the HHA will be considered for an ERS for a period greater than 36 months. The request will be subject to existing ERS procedures outlined in the Medicare Intermediary Manual, Part 2, §§2223 and 2224, and §2409 of the Provider Reimbursement Manual, Part 1. In order to be approved for a greater than 36-month ERS, the HHA must demonstrate a financial need and ability to repay the debt. Each request must be considered on an individual basis on its own merits.

Interest Issues

All HHA IPS debts (as defined previously), interim rate adjustments and cost report determinations, for the 2 cost report years beginning in fiscal years 1998 and 1999, will have interest assessed on the unpaid balance on the 361st day from the original notice, not on the date of the revised ERS agreement. For the purpose of assessing interest on installment payments, Medicare uses a 360 day year. Therefore, the first 12 (30 day) periods are interest free. (For example: if the original notice for repayment is dated December 15, 1998, the 361st day occurs on December 10, 1999. One month's interest will be assessed effective on the 361st day, which in the example is December 10, 1999, and every 30 days thereafter for which there is an unpaid balance.)

Other Issues

No money collected on principal to date through previous payments or arrangements for IPS debts will be returned to the HHA. Any request for an ERS under options 1 or 2 will be considered and processed based upon the current unpaid balance.

If an HHA had interest assessed and collected for the first 12 months on an approved IPS ERS, the intermediary must notify the HHA and give the HHA the opportunity to have the interest refunded or applied to the principal. Do not refund interest to any HHA that has filed for bankruptcy.

An existing ERS as of the date of this Program Memorandum should remain in effect unless the HHA makes a specific request for a change. Any change must be in accordance with the instructions in this Program Memorandum.

A request for an ERS from a HHA currently under investigation for fraud or abuse must be referred to the regional office for adjudication in accordance with the Medicare Intermediary Manual, Part 3, §3955.8.

This Program Memorandum and these ERS options for IPS excess payments expire effective January 31, 2002. These instructions apply to IPS repayment agreements that are entered by January 31, 2002 and do not mean that any installment balance must be liquidated by the expiration date of this instruction.

Please notify the HHAs of these instructions within 30 days of the date of this Program Memorandum (PM).

The effective date for this PM is October 1, 1999.

This PM will be implemented within 30 days of the date of issuance.

Funding is available through a Supplemental Budget Request for costs required for implementation.

This PM may be discarded after January 31, 2003.

If you have any questions, contact Tom Grieves on (410) 786-3373 or Jerry Warfield on (410) 786-7481.