
Program Memorandum

Intermediaries/Carriers

Department of Health and
Human Services (DHHS)
HEALTH CARE FINANCING
ADMINISTRATION (HCFA)

Transmittal AB-00-125

Date: DECEMBER 15, 2000

CHANGE REQUEST 1260

SUBJECT: Accelerated Referral of Non-MSP Delinquent Debts (Active and Currently Not Collectible (CNC)) to Debt Collection Center (DCC) for Cross Servicing and Treasury Offset Program (TOP)

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 Treasury Offset Program (TOP). HCFA is mandated to refer all eligible debt, over 180 days delinquent, for cross servicing/TOP. The criteria for debts eligible for cross servicing/TOP include all debts over 180 days delinquent with no recoupment within the past 180 days. 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 (DOJ) for litigation, or (5) where the debtor is deceased.

Since 1998, HCFA 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.

HCFA 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 2001, and 100 percent by the end of Fiscal Year 2002. To meet this goal, HCFA will need the cooperation and assistance of Medicare Contractors and Regional Offices (ROs).

NOTE: This Program Memorandum (PM) is the first in a series of instructions for debt referral. It does not address beneficiary debt, debt less than \$600, Part A claim adjustments, and debts that are not presently captured in the Provider Overpayment Reporting (POR) and Physician/Supplier Overpayment Reporting (PSOR) systems. HCFA needs to better understand the character of these debts prior to making a decision regarding referral. These debts will be addressed in future PMs.

In addition, the contractor referral of delinquent debt described in this PM does not apply to debts reclassified as CNC. At this time, CNC debt will be referred by HCFA Central Office (CO) for cross servicing/TOP.

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 HCFA's reporting requirements.

Debt Selection

To expedite the referral process, HCFA CO produced a listing of potentially eligible debts -- (List of Potential Debt Referrals), from the POR/PSOR systems. Debts were selected based on specific criteria: Over 180 days delinquent, with no recoupment activity in the past 180 days, and not: (1)

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in bankruptcy status, (2) in an appeal status (pending at any level), (3) under fraud and abuse investigation, (4) at the DOJ for litigation, or (5) where the debtor is deceased.

The listings will be forwarded to the contractors, under separate cover, through the ROs. These are partial listings, and do not represent all eligible delinquent debt. Each debt on the listing should be verified for accuracy. It is especially important to verify the status code and balance. Changes identified must be made to the POR/PSOR.

In addition to the debts identified by HCFA CO, contractors will produce their own eligible debt listings to facilitate the referral of all eligible delinquent debt on an ongoing basis. Instructions for producing these listings using the Ad hoc Report Management System (ARMS) will be published in a future PM.

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

Medicare Contractors 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).

If a final demand letter **was not yet sent**, Medicare Contractors must use the DCIA “intent to refer” letter as the final demand.

If a final demand letter **was sent**, Medicare Contractors will send an additional letter that includes the specific DCIA language.

When appropriate, the “intent to refer” letter must include the amount of interest due, along with the date of the last interest accrual.

Contractors 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.

POR/PSOR Updates

When the intent to refer letter is sent, Medicare Contractors 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”.

In the PSOR, the status code will be changed to “Q” (Pending Referral for Cross Servicing/TOP). The location code on the PSOR will remain “CAR.” It is imperative that the status codes in the POR/PSOR be updated because HCFA CO will use these codes to monitor the progress of attaining the projected debt referral goals, and ensure consistent contractor compliance.

Medicare Contractors will continue to report the debt at their location until notified by HCFA that the debt was transferred for cross servicing.

NOTE: Currently Not Collectible status codes (01, 1) of debts in the POR/PSOR should not be changed. HCFA will address CNC debts.

Debt Collection System (DCS)-(This paragraph is information only and requires no action at this time.)

After 60 days, if there is no response to the intent to refer letter, Medicare contractors 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 HCFA Data Center and is limited to authorized users. Instructions for DCS access and data entry will be forwarded in a future PM.

To enable immediate access upon receipt of the instructions for DCS, contractors must e-mail Debbie Parzynski, HCFA CO (dparzynski@hcfa.gov), upon receipt of this PM, 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/PSOR.

A Supplemental Budget Request (SBR) will be considered if additional funding is required to implement these procedures.

Attachment

The *effective date* of this Program Memorandum (PM) is December 18, 2000.

The *implementation date* of this PM is January 1, 2001.

This PM may be discarded after January 1, 2002.

Contact persons for this PM are Nathalia Martin at (410) 786-5413, or Debbie Parzynski at (410) 786-5435.

These instructions should be implemented within your current operating budget.

ATTACHMENT 1

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.

HCFA suggests contractors 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 Debt Collection Center (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 Debt Collection Center 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), HCFA 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.

Please 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 Debt Collection Center 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 interest accrued through _____. *(Note: Contractors may alter this sentence to read: 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
Contractor 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 _____.

Sincerely,

Signature of Certifying Official
Official Position