



Alerts

CMS Clarifies Rules on Reporting and Returning Overpayments

February 15, 2016

Health Care Alert

On February 11, 2016, the Center for Medicare and Medicaid Services ("CMS") clarified several issues with regard to Medicare reporting and returning of self-identified overpayments.

The Affordable Care Act (the "ACA"), at Section 1128 J (d)(1), requires a health care provider who has received an overpayment to report and return the overpayment to the Secretary, the State, an intermediary, a carrier, or a contractor, as appropriate, and to notify the entity to whom the overpayment was returned in writing of the reason for the overpayment. The Final Rule published by CMS clarifies the meaning of overpayment identification, the required lookback period for overpayment identification, and the methods available for reporting and returning identified overpayments to CMS.

Meaning of Identification Clarified

The ACA requires that an overpayment must be reported and returned by the later of: (i) the date which is sixty days after the date on which the overpayment was identified; or (ii) the date any corresponding cost report is due, if applicable. The Final Rule states that an overpayment has been identified when the person has, or should have, through the exercise of reasonable diligence, determined that an overpayment was indeed received, and quantified the amount of the overpayment. This standard provides some clarity and consistency for health care providers and suppliers regarding the actions they need to take to comply with the requirements for reporting and returning self-identified overpayments.

Lookback Period Reduced

The Final Rule specifies that overpayments must be reported and returned only if a person identifies the overpayment within six years of the date that the overpayment was received. Thus, providers who discover an overpayment now have to look back only six years instead of the originally-proposed lookback period of ten years.

How to Report and Return Overpayments

The Final Rule provides a provider with several options to satisfy the obligation to report and return overpayments. These options include applicable claims adjustment, credit balance, self-reported refund or other appropriate processes.

Attorneys

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For further information regarding these changes or on reporting and returning self-identified overpayments, please contact your regular [Hinshaw attorney](#) or [Roy M. Bossen](#).

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