

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-06 Medicare Financial Management	Centers for Medicare & Medicaid Services (CMS)
Transmittal 316	Date: May 24, 2019
	Change Request 10776

SUBJECT: Updates to Medicare Financial Management Manual Chapter 4, Section 20 and 20.1 Demand Letters

I. SUMMARY OF CHANGES: This Change Request (CR) clarifies and updates demand letter language instructions to chapter 4, sections 20 through 20.1 (Under the Federal Claims Collection) of the Financial Management Manual.

EFFECTIVE DATE: October 1, 2019

**Unless otherwise specified, the effective date is the date of service.*

IMPLEMENTATION DATE: October 7, 2019

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. 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: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
R	4/20/Demand Letters
R	4/20.1/Number of Demand Letters
R	4/20.2/EXHIBIT 1- INITIAL DEMAND LETTER - NON-935
R	4/20.2/INITIAL DEMAND LETTER - 935
R	4/20.2/Exhibit 3- Initial Demand Letter- Cost Reports Filed
R	4/20.2/Exhibit 4-Initial Demand Letter- Unfiled Cost Report
R	4/20.2/Exhibit 5- Intent to Refer Letter- Non 935
R	4/20.2/Exhibit 6- Intent to Refer Letter- 935
R	4/20.2/Exhibit 7- Unfiled Cost Reports Only

III. FUNDING:

For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to

be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

**Business Requirements
Manual Instruction**

Number	Requirement	Responsibility									
		A/B MAC		H H H	D M E M A C	Shared- System Maintainers				Other	
		A	B			F I S S	M C S	V M S	C W F		
	the Request for Anticipated Payment (RAP) overpayment and map the <u>APROV-CLA-NO APPEAL</u> letter.										
10776.2.2	HIGLAS shall modify Letter Extension to display the verbiage based on the transaction type enrolled for Immediate Offset. The instructions are defined in the Internet Only Manual.										HIGLAS
10776.3	Contractors shall deem all interim and lump-sum payments made for the fiscal period and all interim and lump-sum payments made in a subsequent period as an overpayment when a cost report reminder/notification letter is sent to a provider for an unfiled cost report or an as-filed cost report overpayment.	X		X	X						

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility									
		A/B MAC		H H H	D M E M A C	Shared- System Maintainers				Other	
		A	B			F I S S	M C S	V M S	C W F		
	None										

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
	N/A

Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Theresa Carter, 410-786-7482 or theresa.carter@cms.hhs.gov

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR).

VI. FUNDING

Section A: For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

ATTACHMENTS: 0

Medicare Financial Management

Chapter 4 - Debt Collection

20 –Demand Letters –

(Rev.316, Issued: 05-24-19, Effective: 10-01-19, Implementation: 10-07-19)

There are two overpayment demand letters, an Initial Demand Letter and an Intent to Refer Letter (ITR) (this does not include notification letters or response letters) used in the debt collection process. The purpose of an overpayment demand letter is to notify the providers and suppliers of the existence and amount of an overpayment, and to request repayment. Every demand letter, regardless of the cause of the overpayment or the status of the provider or supplier, shall meet certain requirements as to form and content.

Below is a detailed list of the requirements for the basic overpayment demand letters to use in various overpayment situations (it is not all-inclusive).

Non-Cost Report Overpayment Demand Letters:

1. The initial demand letter shall be sent to the provider or supplier within 7 calendar days of the determination of the overpayment.
2. The letters shall be labeled either Initial Demand *Letter* or The Intent to Refer Letter (ITR).
3. The initial demand letter shall be sent by first class mail, secured email, or fax.
4. The initial demand letter is an explanation of the nature of the overpayment, how it was established, *a bankruptcy notice*, and the amount determined.
5. The initial demand letter includes language to request the provider or supplier to submit a refund or arrange for immediate recoupment, or file an appeal (*with exception of Requests for Anticipated Payment (RAP) claims that shall not receive appeal rights, see 100-06 Chapter 3 Section 200.1.2*).
6. The initial demand letter offers the provider or supplier the opportunity to apply for an Extended Repayment Schedule (ERS) if repayment of the debt will cause financial hardship. (An ERS shall be analyzed using the criteria set forth in Chapter 4, §50. Any approved ERS would run from the approval date.)
7. If payment in full is not received within 30 days, interest will be charged.
8. The initial demand letter includes Debt Collection Improvement Act (DCIA) Intent Language for referral to the Treasury Department for cross servicing.
9. The ITR letter is sent to the provider or supplier at least 60 days after the date of the initial, final or revised demand letter, *if it is not in a status excluded from debt referral, and shall include the initial demand letter number*.
10. All correspondence, including demand letters, addressed to a provider or supplier in bankruptcy proceedings, shall be submitted to the Regional Office (RO), which has the lead in the bankruptcy proceedings, for approval prior to release.

Cost Report Overpayment Demand Letters:

1. When a provider files a cost report without payment for the amount due from the provider, the contractor shall send a demand letter to the provider. The demand letter shall inform the provider that the contractor will *recoup* (reduce or withhold) *Medicare* payments if it does not receive *the overpayment amount*, or a request for a repayment *schedule* along with the first month's payment within 15 days of the date of the demand letter.
2. In the situation of an unfiled cost report, the cost report reminder letter serves as sufficient notice that *future Medicare* payments (interim payments) will be suspended if the overpayment *amount* is not received on or before its due date.
3. *In addition to the suspension of future Medicare payments for failure to file a cost report, contractors shall deem all interim and lump-sum payments made for the fiscal period and all interim and lump-sum payments made in a subsequent period as an overpayment. These overpayments shall be immediately due and payable to CMS if the cost report is not received timely.*
4. *The contractor shall ensure that recoupment of Medicare payments does not start until the cost report demand letter is generated.*
5. The initial cost report *demand* letters *may* be delivered certified *mail*, *electronic mail (e-mail)*, or *through a secured portal*, and shall include a receipt *confirmation*.
6. The *initial* cost report *demand* letters shall be *sent* to the provider or supplier on the 7th day after the due date or extended due date of the cost report, if not received.
7. The *initial* cost report *demand* letters shall include the explanation of the overpayment determination *and the* amount due or Notice of Program Reimbursement (cost report).
8. The provider or supplier *may submit* a cost report, *make a refund*, *arrange* for immediate recoupment, or *request* an ERS, as applicable.
9. The percentage of withhold shall be indicated whenever an adjustment (reduction or suspension) of interim payments has been imposed.
10. The cost report letters shall offer the provider the opportunity to apply for an ERS if repayment of the debt will cause financial hardship. (An ERS shall be analyzed using the criteria set forth in Chapter 4, §50. Any approved ERS would run from the approval date.)
11. The cost report letters shall include DCIA Intent Language for referral to the Treasury Department for cross servicing.
12. The ITR letter shall be mailed to the provider 60 days after the date of the Initial Demand letter, *if it is not in a status excluded from debt referral*.

20.1 - Number of Demand Letters

(Rev.316, Issued: 05-24-19, Effective: 10-01-19, Implementation: 10-07-19)

In general, the contractor sends one overpayment Initial (1st) demand letter to a provider or supplier. The contractor shall have *at all times* access to *copies* of the demand letters generally housed in the case file, bulk PDF, or in HIGLAS. When the demand letter has been sent and returned as undeliverable, the contractor shall attempt to locate the provider or supplier (see Chapter 4, §10). If the contractor is

unable to locate the provider or supplier and the overpayment is eligible for referral to the Department of Treasury, the contractor shall immediately send the ITR demand letter, which shall include the intent to refer language.

Where a repayment *schedule* has been established after the Initial (1st) demand letter has been sent **and** the provider or supplier defaults on the repayment *schedule*, the contractor shall count that 1st demand letter as one of the two letters (1st and ITR) normally sent to an overpaid provider or supplier.

20.2 - Sample Demand Letters – All Providers or Suppliers

It is CMS' responsibility to protect the Trust Fund and replenish any overpaid funds. In this section, contractors are given templates to model when sending providers and suppliers a request for payment.

EXHIBIT 1- INITIAL DEMAND LETTER - NON-935

(Rev.316, Issued: 05-24-19, Effective: 10-01-19, Implementation: 10-07-19)

Contractors shall use the appropriate template below:

A. Contractors on HIGLAS shall use the list below for the appropriate system generated letters.

1. (BPROV1.pdf) Part B Provider/Supplier Initial Demand Letter
2. (BPROV1VA.pdf) Provider/Supplier Voluntary Returned Check 1st demand letter
3. (BPROV1N.pdf) Part B Provider/Supplier Notify Initial Demand Letter
4. (BPROV1V.pdf) Part B Provider/Supplier Voluntary Refund 1st Demand Letter
5. (APROV1.pdf) Part A Aggregate Claims Demand Letter
6. (APROV-CLA.pdf) Part A No Appeal

B. Contractors not on HIGLAS and Manual letters shall use this letter as your template.

RE: Initial Demand Letter
Provider/Supplier Name:
Provider/Supplier Number:
&
Overpayment Amount:
&HINVOICE_AMOUNT
Outstanding Balance:
&DEMAND_AMOUNT

C. Contractors shall use the appropriate first paragraph below:

Dear Sir/Madam:

PART B Provider or Supplier Demand Letter (BPROV1.pdf in HIGLAS)

This is to let you know that you have received a Medicare payment in error, which has resulted in an overpayment to you of &HINVOICE_AMOUNT. The attached documentation explains how this happened.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

Or,

PART B Provider or Supplier Notify 1st Demand Letter (BPROV1N.pdf in HIGLAS)

We appreciate your recent inquiry regarding a Medicare payment that you believe was paid in error. Our analysis found that the overpaid amount was &DEMAND_AMOUNT. The attached documentation explains how this happened. We thank you for bringing this overpayment to our attention.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

Or,

PART B Provider or Supplier Voluntary Returned/Refund 1st Demand, (BPROV1VA.pdf in HIGLAS) or (BPROV1V.pdf in HIGLAS)

We have received your check in the amount of &INVOICE_RECEIPT_AMOUNT. 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 &HINVOICE_AMOUNT. The attached documentation explains how this happened. Please remit the additional &INVOICE_BALANCE_AMOUNT.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

Or,

PART A (Non-935) Aggregate Claims Demand Letter (APROV1.pdf in HIGLAS)

Claims adjustments were entered in our system under provider &HPROVIDER_NAME. Additional adjustments were made to the claims, and a balance in the amount of &DEMAND_AMOUNT 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. The attached documentation explains how this happened.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

Or,

PART A No Appeal Claims Demand Letter (APROVNOAPPEAL1.pdf in HIGLAS)

Claims adjustments were entered in our system under provider &HPROVIDER_NAME and a balance in the amount of &DEMAND_AMOUNT is due. The purpose of our letter is to request that this amount be repaid to our office. The attached documentation explains how this happened.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

D. Contractors shall include the following language below in all initial letters after the first paragraph.

Why you are responsible:

You are responsible for following correct Medicare filing procedures and must use care when billing and accepting payment. You are responsible for repayment in this matter based upon one or both of the following criteria:

1. You billed and/or received payment for services for which you should have known you were not entitled to receive payment. Therefore, you are not without fault and are responsible for repaying the overpayment amount.
2. You received overpayments resulting from retroactive changes in the Medicare Physician Fee Schedule and/or changes mandated by legislation.

If you dispute this determination, please follow the appropriate appeals process listed below. (Applicable authorities: § 1870(b) of Social Security Act; sub§ 405.350 - 405.359 of Title 42, sub§ 404.506 - 404.509, 404.510a and 404.512 of Title 20 of the United States Code of Federal Regulations.) *[This appeal paragraph is to be excluded in No-Appeal demand letters.]*

Rebuttal Process:

*Under our existing regulations 42 CFR § 405.374, providers and suppliers will have **15 days from the date of this demand letter** to submit a statement of rebuttal. The rebuttal process provides the debtor the opportunity, before the suspension, offset, or recoupment takes effect, to submit any statement (to include any pertinent information) as to why it should not be put into effect on the date specified in the notice. A rebuttal is not intended to request a review of supporting medical documentation nor to express disagreement with the overpayment decision. A rebuttal shall not duplicate the redetermination process. **This is not an appeal of the overpayment determination.** Our office will advise you of our decision 15 days from the mailroom-stamped receipt date of your request.*

Interest Assessment:

If you do not refund in 30 days:

In accordance with 42 CFR 405.378, simple interest at the rate of &AR_INTEREST_RATE % 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 &AR_INTEREST_RATE %. In addition, please note that Medicare rules require that payment be either received in our office by &LETTER_DATE_29 (United States Postal Service Postmark) for the payment to be considered timely. A metered mail postmark received in our office after &LETTER_DATE_29 will cause an additional month's interest to be assessed on the debt.

Payment by Recoupment:

If payment in full is not received by &LETTER_DATE_40 (&LETTER_DATE_15 for Part A non-935), payments to you can be recouped (recoupment) until payment in full is received if you haven't submitted an acceptable ERS request, an immediate recoupment request, and/or a valid and timely appeal is received.

Make a payment or Arrange for payments:

What you should do:

Please return the overpaid amount to us by &LETTER_DATE_29 and no interest charge will be assessed. Make the check payable to Medicare Part A and send it with a copy of this letter to:

&CONTRACTOR_NAME
&REVIEW_ADDRESS1
&REVIEW_ADDRESS2
&REVIEW_CITY, &REVIEW_STATE &REVIEW_POSTAL_CODE

In addition, please note that Medicare rules require that payment be either received in our office by, &LETTER_DATE_29, or United States Postal Service postmark by that date, for the payment to be considered timely. A metered mail postmark received in our office after &LETTER_DATE_29 will cause an additional month's interest to be assessed on the debt.

If you are unable to make refund of the entire amount at this time, advise this office immediately with a request for an extended repayment schedule (ERS) so that we may determine if you are eligible for one. Any repayment *schedule* (where one is approved) would run from the approval date. **You can visit our website at [&CONTRACTOR_URL] for ERS instructions and forms.**

Immediate Recoupment:

If Provider is enrolled in Immediate Recoupment-

NO FURTHER ACTION IS REQUIRED BY YOU. You have previously elected to have your overpayment(s) repaid through the **Immediate Recoupment** process. Based on this payments to you will begin to be recouped on &LETTER_DATE_16 until payment is received in full. If the debt is not collected in full before day 31, interest will continue to accrue until the debt is collected in full.

If Provider is NOT enrolled in Immediate Recoupment-

TO SIMPLIFY THE REPAYMENT PROCESS, reduce the extra work and cost associated with mailing your repayment each time, you may elect to have automatic immediate recoupments for ALL overpayments by requesting the **Immediate Recoupment** process for All Current and Future Accounts Receivable. This will automatically begin recoupment starting on day 16 for ALL future accounts receivable. When the initial request is received after day 16 the debt shall be placed in an immediate recoupment status. If the debt is not collected in full before day 31, interest will continue to accrue until the debt is collected in full.

You must specify whether you are submitting:

- 1. A request on the current demanded overpayment (all accounts receivables within this demand letter) and ALL FUTURE OVERPAYMENTS; or***
- 2. A one-time request on this current demanded overpayment (all accounts receivables) addressed in this demand letter only.***

This process is voluntary and for your convenience.

You can visit our website at {MAC site} for the Immediate Recoupment

Request instructions.

You may contact this office for information on how to fax your request.

You may contact this office for information on how to fax your request. *(Immediate recoupment already in effect for Part A non-935.)*

If you wish to appeal this decision: *[This appeal paragraph is to be excluded in No-Appeal demand letters.]*

If you disagree with this overpayment decision, you may file an appeal. Please refer to the original remittance advice for additional instruction. An appeal is a review performed by people independent of those who have reviewed your claim so far. The first level of appeal is called a redetermination. You must file your request for a redetermination within 120 days of the date you receive this letter. Unless you show us otherwise, we assume you received this letter 5 days after the date of this letter. Please send your request for redetermination to:

&CONTRACTOR_NAME &REVIEW_ADDRESS1 &REVIEW_ADDRESS2
&REVIEW_CITY, &REVIEW_STATE &REVIEW_POSTAL_CODE

Medicaid Offset:

If this matter is not resolved, 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 to Medicare is recouped, Title 42 CFR, § 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.

Right to Inspect Records Prior to Referral to Treasury:

In the event an ITR letter is sent, you have the right to inspect and copy all records pertaining to your debt. In order to present evidence or review the CMS records, you must submit a written request to the address below. Your request must be received within 60 calendar days from the ITR letter date. In response to a timely request for access to CMS' records, you will be notified of the location and time when you can inspect and copy records related to this debt. Interest will continue to accrue during any review period. Therefore, while review is pending, you will be liable for interest and related late payment charges on amounts not paid by the due date identified above.

For Individual Debtors Filing a Joint Federal Income Tax Return:

The Treasury Offset Program automatically refers debts to the Internal Revenue Service (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.

For Debtors that Share a Tax Identification Number(s):

Section 1866(j)(6) of the Social Security Act authorizes the Secretary of Health and Human Services (the Secretary) to make any necessary adjustments to the payments of an applicable provider or supplier who shares a TIN with an obligated provider or supplier, one that has an outstanding Medicare overpayment. The Secretary is authorized to adjust the payments of such a provider or supplier regardless of whether it has been assigned a different billing number or National Provider Identification Number (NPI) from that

of the provider or supplier with the outstanding Medicare overpayment.

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.

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 contact your overpayment representative at the following number:

CONTACT_PHONE_NUM_

We look forward to hearing from you shortly.

Sincerely,

Medicare A or B Recovery Unit

Enclosures: How This Overpayment Was Determined

EXHIBIT 2- INITIAL DEMAND LETTER - 935

(Rev.316, Issued: 05-24-19, Effective: 10-01-19, Implementation: 10-07-19)

A. Contractors on HIGLAS shall use the list below for the appropriate system generated letters.

1. (APROV9351.pdf): Part-A Adjustment Initial Claims Demand letter
2. (BPROV9351.pdf): Part-B 935 Adjustment Initial Claims Demand letter
3. (APROVAGG9351.pdf): Part-A Aggregate Closure Initial Demand Letter
4. (BPROVAGG9351.pdf): Part-B Aggregate Closure Initial Demand Letter
5. (APROVRAC1.pdf): Part-A 935 RAC Adjustment Claims Demand Letter
6. (BPROVRAC1.pdf): Part-B 935 RAC Adjustment Claims Demand Letter
7. (APROVRACAGG1.pdf): Part-A 935 RAC Adjustment Claims Initial Demand Letter
8. (BPROVRACAGG1.pdf): Part-B 935 RAC Adjustment Claims Initial Demand Letter

B. Contractors not on HIGLAS shall use this letter as your template.

Letter Number: Date:

&HPROVIDER_NAME

&HPROVIDER_ADDRESS1

&HPROVIDER_CITY, &HPROVIDER_STATE

HPROVIDER_POSTAL_CODE

INITIAL REQUEST

**[Contractors shall use the appropriate reference below for demanded 935 overpayments.] RE:
MMA 935 –
Overpayment Amount**

Dear Sir/Madam,

Contractors shall use the appropriate first paragraph below for all Initial Demands letters except Recovery Audit Contractors (RAC).

This letter is to inform you that you have received a Medicare payment in error, which has resulted in an overpayment subject to § 935(f) (2) of the Medicare Modernization Act (MMA), § 1893(f) (2) of the Social Security Act, Limitation on Recoupment, in the amount & DEMAND_ AMOUNT. **The purpose of this letter is to request that this amount be repaid to our office. The attached explains how this happened.**

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

(RAC Demand Letter Language only)

This finding was a result of a Recovery Audit Program review. If you have any questions relating to this letter or the recoupment process, you should contact us at: &CONTRACT_STATE_TOLL_FREE_ &CONTRACT_STATE_TOLL_FREE_NUM. If you have any questions relating to the review rationale or you feel that this finding is in error and would like to submit additional documentation or discuss the issue further, please contact the Recovery Auditor.

If you are unable to locate the name and contact information for the Recovery Auditor from prior correspondence, please contact the Medicare Administrative Contractor, which is located at the bottom of this page, for further information.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

How This Overpayment Was Determined:

[When applicable on a Manual Letter, include explanation of the overpayment determination.]

[Contractor shall explain the authority for reopening the claims (i.e., consistent with 42 CFR 405.980 and Publication 100-04, Medicare Claims Processing Manual, chapter 34) and explain how the facts of the case allowed you to reopen within the timeframes established in those sections.]

Why You Are Responsible:

You are responsible for following correct Medicare filing procedures. 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: § 1870(b) (c) of the Social Security Act; Sub§ 405.350 - 405.359 of Title 42 CFR, Sub§ 404.506 - 404.509, 404.510a and 404.512 of Title 20 of the United States Code of Federal Regulations.

This amount is subject to § 935(f) (2) of the Medicare Modernization Act (MMA) (section 1893(f) (2) of

the Social Security Act), Limitation on Recoupment (42 CFR 405.379).

Rebuttal Process:

Under our existing regulations at 42 CFR § 405.374, Providers or Suppliers will have **15 days from the date of this demand letter** to have an opportunity for rebuttal by submitting a statement. The rebuttal process provides the debtor the opportunity, before the suspension of payment, offset, or recoupment takes effect, to submit any statement (to include any pertinent information) as to why it should not be put into effect on the date specified in the notice. A rebuttal is not intended as a request for the review supporting medical documentation nor to express disagreement with the overpayment decision. A rebuttal *shall* not duplicate the redetermination process. **This is not an appeal of the overpayment determination. The limitation on recoupment under § 1893 (f) (2) (a) of the Social Security Act does not apply to rebuttal requests.** Our office will advise you of our decision 15 days from the mailroom-stamped receipt date of your request.

Interest Assessment:

If you do not pay the full amount in 30 days:

In accordance with 42 CFR 405.378, simple interest at the rate of &AR_INTEREST_RATE percent 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 &AR_INTEREST_RATE percent. A metered mail postmark received in our office after &LETTER_DATE_29 will cause an additional month's interest to be assessed on the debt.

In addition, please note that Medicare rules require that payment be either received in our office by &LETTER_DATE_29 or United States Postal Service Postmark by that date for the payment to be considered timely.

Suspended Funds Applied To The Overpayment and Has a Remaining Outstanding Balance:

If the suspended funds are insufficient to fully eliminate any overpayment, and the provider or supplier meets the requirements of 42 CFR § 405.379 "Limitation on Recoupment" provision under §1893(f) (2) of the Act, then the provider or supplier is subject to 935 Appeals rights and will be available for offset after 41 days on the remaining balance still owed to CMS. (See 42 CFR § 405.372(e) for more information.)

Payment by Recoupment:

If payment in full is not received by &LETTER_DATE_29 (**date of the notification**), payments to you can be recouped (recoupment) until payment in full is received if you haven't submitted an acceptable ERS request, an immediate recoupment request, and/or a valid and timely appeal is received.

Make a Payment or Arrange for Payments:

What You Should Do:

Please return the overpaid amount to us by &LETTER_DATE_29 and no interest will be assessed. We request that you refund this amount in full.

Make the check payable to Medicare **[Part A]** or **[Part B]** and send it with a **copy of this letter** to:

&CONTRACTOR_NAME
&CHECK_ADDRESS1
&CHECK_CITY, &CHECK_STATE &CHECK_POSTAL_CODE

If you are unable to make refund of the entire amount at this time, advise this office immediately with a request for an extended repayment schedule (ERS) so that we may determine if you are eligible for one. Any repayment *schedule* (where one is approved) would run from the approval date. **You can visit our website at [\[&CONTRACTOR_URL\]](#) for ERS instructions and forms.**

Immediate Recoupment:

If Provider is enrolled in Immediate Recoupment-

NO FURTHER ACTION IS REQUIRED BY YOU. You have previously elected to have your overpayment(s) repaid through the **Immediate Recoupment** process. Based on this payments to you will begin to be recouped on &LETTER_DATE_16 until payment is received in full. If the debt is not collected in full before day 31, interest will continue to accrue until the debt is collected in full.

If Provider is NOT enrolled in Immediate Recoupment-

TO SIMPLIFY THE REPAYMENT PROCESS, reduce the extra work and cost associated with mailing your repayment each time, you may elect to have automatic immediate recoupments for ALL overpayments by requesting the **Immediate Recoupment** process for All Current and Future Accounts Receivable. This will automatically begin recoupment starting on day 16 for ALL future accounts receivable. When the initial request is received after day 16 the debt shall be placed in an immediate recoupment status. If the debt is not collected in full before day 31, interest will continue to accrue until the debt is collected in full.

You must specify whether you are submitting:

- 1. A request on the current demanded overpayment (all accounts receivables within this demand letter) and ALL FUTURE OVERPAYMENTS; or*
- 2. A one-time request on this current demanded overpayment (all accounts receivables) addressed in this demand letter only.*

This process is voluntary and for your convenience.

You can visit our website at [{MAC site}](#) for the Immediate Recoupment Request instructions.

You may contact this office for information on how to fax your request.

This process is voluntary and for your convenience. Your request must specifically state you understand you are waiving potential receipt of interest payment pursuant to § 1893(f) (2) for the overpayments.

Note: *Such interest may be payable for certain overpayments reversed at the ALJ level or subsequent levels of appeal.*

If You Wish To Appeal This Decision:

If you disagree with this overpayment decision, you may file an appeal. An appeal is a review performed by people independent of those who have reviewed your claims. The first level of appeal is called a redetermination. You must file your request for a redetermination 120 days from the date of this letter. **However, if you wish to avoid recoupment from occurring, you need to file your request for redetermination within 30 days from the date of this letter, as described above.** Unless you show us otherwise, we assume you received this letter within 5 days of the date of this letter.

Please send your request for redetermination to:

&CONTRACTOR_NAME - 935 APPEALS
REDETERMINATION &REVIEW_ADDRESS1
&REVIEW_CITY, &REVIEW_STATE &REVIEW_POSTAL_CODE

How to Stop Recoupment:

Even if the overpayment and any assessed interest has not been paid in full, you can temporarily stop Medicare from recouping any payments. **If you act quickly and decidedly**, Medicare will **stop recoupment** at two points.

First Opportunity: We must receive a valid and timely request for a redetermination within 30 days from the date of this letter. We will stop or delay recoupment pending the results of an appeal. To assist us in expeditiously stopping the recoupment process, we request that you clearly indicate on your appeal request that this is a 935 overpayment appeal for a redetermination.

Second Opportunity: If the redetermination decision is (1) **unfavorable**, we will begin to recoup no earlier than the 60th day from the date of the Medicare redetermination notice (Medicare Appeal Decision Letter); or (2) if the decision is **partially favorable**, we will begin to recoup no earlier than the 60th day from the date of the Medicare revised overpayment Notice/Revised Demand Letter. Therefore, it is important to act quickly and decidedly to limit recoupment by submitting a valid and timely request for reconsideration within 60 days of the appropriate notice/letter. The address and details on how to file a request for reconsideration will be included in the Redetermination decision letter.

What Happens Following a Reconsideration By a Qualified Independent Contractor (QIC):

Following a **decision or dismissal** by the QIC, if the debt has not been paid in full, we will begin or resume recoupment whether or not you appeal to the next level, Administrative Law Judge (ALJ).

NOTE: Even when recoupment is stopped, interest continues to accrue.

Medicaid Offset:

If this matter is not resolved, 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 to Medicare is recouped; Title 42 CFR, § 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.

Right to Inspect Records Prior to Referral to Treasury:

In the event an Intent to Refer (ITR) letter is sent, you have the right to inspect and copy all records pertaining to your debt. In order to present evidence or review the CMS records, you must submit a written request to the address below. Your request must be received within 60 calendar days from the ITR letter date. In response to a timely request for access to CMS's records, you will be notified of the

location and time when you can inspect and copy records related to this debt. Interest will continue to accrue during any review period. Therefore, while review is pending, you will be liable for interest and related late payment charges on amounts not paid by the due date identified above.

For Individual Debtors Filing a Joint Federal Income Tax Return:

The Treasury Offset Program automatically refers debts to the Internal Revenue

Service (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.

For Debtors That Share a Tax Identification Number (TIN):

Section 1866(j)(6) of the Social Security Act authorizes the Secretary of Health and Human Services (the Secretary) to make any necessary adjustments to the payments of an applicable provider or supplier who shares a TIN with an obligated provider or supplier, one that has an outstanding Medicare overpayment. The Secretary is authorized to adjust the payments of such a provider or supplier regardless of whether it has been assigned a different billing number or National Provider Identification Number (NPI) from that of the provider or supplier with the outstanding Medicare overpayment.

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.

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 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 your overpayment consultant at the following:

&BUSINESS_PURPOSE_1
&CONTRACT_CONTACT_PHONE_NUM_
1

We look forward to hearing from you shortly.

Sincerely,

SELECT

Supervisor, Part A Overpayments &CONTRACTOR_NAME

Or,

Medicare Part B Recovery Unit

Enclosures

How This Overpayment Was Determined

EXHIBIT 3 -- INITIAL DEMAND LETTER -- COST REPORTS FILED --

(Rev.316, Issued: 05-24-19, Effective: 10-01-19, Implementation: 10-07-19)

A. Contractors on HIGLAS shall use the list below for the appropriate system generated letters.

1. (APROVCRASF1.pdf): Part-A As-Filed Cost Report Initial Demand letter
2. *(APROVNONCRASF1.pdf): Part A Cost Report Initial Letter – Tentative Settlement*

B. Contractors not on HIGLAS shall use this letter below as your template.

C. Use the appropriate reference below for the first paragraph.

INITIAL REQUEST

RECEIPT CONFIRMATION REQUESTED

RE: Initial Demand Letter Provider or Supplier Name:

Provider/Supplier Number: &

Overpayment Amount: &HINVOICE_AMOUNT

Outstanding Balance: & DEMAND_AMOUNT

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 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.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

(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.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

(As Filed Cost Report)

On July 26, 20xx, we received your cost report for the fiscal year ending June 30, xxxx. The cost report, as filed, reflects an overpayment of \$_____ 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 *shall* accompany the cost report submission.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

PLEASE MAIL TO:

*&CONTRACTOR_NAME &CHECK_ADDRESS1 &CHECK_ADDRESS2
&CHECK_CITY, &CHECK_STATE &CHECK_POSTAL_CODE*

The total of &DEMAND_AMOUNT should immediately be refunded in full. Your facility's check should include your provider number and be made payable to &CONTRACTOR_NAME.

If payment in full is not received, 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, you must notify [contractor]. We will review your documentation, but will not delay recoupment.

This is not an appeal of the overpayment determination.

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 Title XIX of any Medicaid payments that may be due you or related facilities until the full amount owed Medicare is recouped, Title 42 CFR, § 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. The appeal process is detailed in the Notice of Program Reimbursement (NPR).

Interest Assessment:

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 ___.

Extended Repayment Request:

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 *schedule*. (Refer to www.Mac.com for details and forms.) Any repayment *schedule* (where one is approved) would run from the approval date. 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:

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.

For Debtors That Share a Tax Identification Numbers:

Section 1866(j)(6) of the Social Security Act authorizes the Secretary of Health and Human Services (the Secretary) to make any necessary adjustments to the payments of an applicable provider or supplier who shares a TIN with an obligated provider or supplier, one that has an outstanding Medicare overpayment. The Secretary is authorized to adjust the payments of such a provider or supplier regardless of whether it has been assigned a different billing number or National Provider Identification Number (NPI) from that of the provider or supplier with the outstanding Medicare overpayment.

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

Sincerely,

(Name and Title)

Enclosure

EXHIBIT 4- INITIAL DEMAND LETTER – UNFILED COST REPORT

(Rev.316, Issued: 05-24-19, Effective: 10-01-19, Implementation: 10-07-19)

A. Contractors on HIGLAS shall use the list below for the appropriate system generated letters.

1. (APROVNONCRASF1.pdf): Part-A Non As-Unfiled Cost Report Initial Demand Letter

B. Contractors not on HIGLAS shall use this letter as your template.

(Mailed 7 calendar days after cost report was

due.) Date:

INITIAL DEMAND LETTER

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

RECEIPT *CONFIRMATION* REQUESTED

RE: Late Medicare Cost

Report Provider Name: [DBA

Name] Provider Number:

[xxxxxxx]

Fiscal Year End: [Month, Day, Year]

Dear [Title] [Last Name]

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

(Unfiled Cost Report)

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), § 413.24, cost reports are due by the last day of the fifth (5th) 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].

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

(Home Office Cost Report is Unfiled)

We have not received the home office cost statement from _____. According to our records, ___ serves as the home office for your facility. Since the home office cost statement 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 statement.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

Deemed Overpayment:

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 Act (FCCA) 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 in accordance with Title 42 CFR 405.378 (c) (1) (v).

If full payment is not received or arrangements made for an extended repayment schedule, we will take all action(s) necessary to recover the full amount. You can visit our website at [&CONTRACTOR_URL] for ERS instructions and forms.

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 § 405.371(d). 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 § 405.378 (b) (2), interest charges are assessed in thirty (30)-day 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 (30) days of the date of this letter; or (3) A request for a repayment *schedule* 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.

For Debtors That Share Tax Identification Numbers:

Section 1866(j)(6) of the Social Security Act authorizes the Secretary of Health and Human Services (the Secretary) to make any necessary adjustments to the payments of an applicable provider or supplier who shares a TIN with an obligated provider or supplier, one that has an outstanding Medicare overpayment. The Secretary is authorized to adjust the payments of such a provider or supplier regardless of whether it has been assigned a different billing number or National Provider Identification Number (NPI) from that of the provider or supplier with the outstanding Medicare overpayment.

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, § 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.

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.

Termination of Medicare Provider Agreement:

Be advised that under Title XVIII, § 1866(b)(2)(A) 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]

Intent to Refer Letters:

EXHIBIT 5- INTENT TO REFER LETTER- NON-935 –

(Rev.316, Issued: 05-24-19, Effective: 10-01-19, Implementation: 10-07-19)

Contractors shall use the appropriate template below:

A. Contractors on HIGLAS shall use the list below for the appropriate system generated letters.

1. (BPROV3.pdf) Part B Provider Intent to Refer
2. (APROV3.pdf) Part A Aggregate Claims Intent to Refer

B. Contractors not on HIGLAS shall use this letter as your template.

Note: Contractors shall use this template for manual letters and shall scan all letters for easy access.

Date: &LETTER

&LETTER_HEADER1 &LETTER_HEADER2

&LETTER_HEADER3 &LETTER_HEADER4

Letter Number: &LETTER_NUMBER

&HPROVIDER_NAME

&HPROVIDER_ADDRESS1

&HPROVIDER_ADDRESS2

&HPROVIDER_CITY, &HPROVIDER_STATE &HPROVIDER_POSTAL_CODE

&HPROVIDER_COUNTRY

RE: Overpayment Amount: &HINVOICE_AMOUNT Outstanding Balance:
&DEMAND_AMOUNT
Provider Number: &HPROVIDER_NUMBER

Notice of Intent to Refer Debt to the Department of Treasury's Debt Collection Center for Cross Servicing and Offset of Federal Payments and Certain Eligible State Payments

Dear Sir/Madam:

On &DATE_OF_ORIGINAL_DEMAND_LETTER, we sent a letter requesting that you refund an overpayment made to you in the amount of &HINVOICE_AMOUNT that resulted from claim(s) accounts receivable(s). As of the date of this letter, we have not yet received payment, an application for an extended repayment *schedule*, or have sufficient assigned Medicare claims been submitted for collection of the balance. *The outstanding amount due for this overpayment is &DEMAND_AMOUNT, which includes a principal amount of &INVOICE_BALANCE_AMOUNT and interest assessed in the amount of &INTEREST_BALANCE_AMOUNT.*

Your debt to the Medicare Program is delinquent and, by way of this letter, we are providing notice that your debt may be referred to the Department of Treasury's Debt Collection Center (DCC) for Cross Servicing and Offset of Federal Payments. Your debt may be referred under provisions of Federal Law, title 31 of the United States Code, § 3720A, which is a provision of the Debt Collection Improvement Act of 1996.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

Repayment

Your debt will not be referred to the Department of Treasury if you make payment in full. The past due amount of &DEMAND_AMOUNT owed to the Medicare Program as of &LETTER_DT includes interest accrued through &LAST_INTEREST_ACCRUAL_DATE. 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 and sent with a copy of this letter to:

&CONTRACTOR_NAME &CHECK_ADDRESS1 &CHECK_ADDRESS2
&CHECK_CITY, &CHECK_STATE &CHECK_POSTAL_CODE

If you cannot make payment in full, you may be allowed to enter into an extended repayment agreement if you are eligible under the requirements at 42 C.F.R. 401.607(c)(2). If you are interested in an extended repayment agreement, please contact this office. Refer to your initial demand letter to determine your rights to an appeal.

Referral To The U.S. Department of The Treasury for Collection

If your debt remains unpaid **60** days from the date of this letter, your debt will be referred to the United States Department of the Treasury's (the Treasury) Debt Management Services for Cross Servicing and Offset of Federal Payments. Your debt will be referred under 31 U.S.C. 3711(g). The Treasury's Debt Management Services will use various tools to collect the debt, including offset of federal payments, demand letters, phone calls, referral to a private collection agency, and referral to the U.S. Department of Justice for litigation.

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 the 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 calendar days of the date of this letter. If, after sixty (60) calendar days from the date of this letter, we have not received such evidence, your debt, if it is still outstanding and eligible for referral, may be referred to the Department of Treasury or its designated Debt Collection Center for cross servicing/offset.

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.

Overpayments from Debtors Who Share Tax Identification Numbers

Section 1866(j)(6) of the Social Security Act authorizes the Secretary of Health and Human Services (the Secretary) to make any necessary adjustments to the payments of an applicable provider or supplier who shares a TIN with an obligated provider or supplier, one that has an outstanding Medicare overpayment. The Secretary is authorized to adjust the payments of such a provider or supplier regardless of whether it has been assigned a different billing number or National Provider Identification Number (NPI) from that of the provider or supplier with the outstanding Medicare overpayment.

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

If this matter is not resolved, 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 to Medicare is recouped, per Title 42 CFR, § 447.30. These recoveries will be in addition to any recoupment from other Medicare funds due you until the full amount owed to Medicare is recovered.

Bankruptcy

If you have filed 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.

Should you have any questions, please contact your overpayment consultant at the following:

&BUSINESS_PURPOSE_1
&CONTRACT_CONTACT_PHONE_NUM_1
&BUSINESS_PURPOSE_2
&CONTRACT_CONTACT_PHONE_NUM_2
&BUSINESS_PURPOSE_3
&CONTRACT_CONTACT_PHONE_NUM_3
&BUSINESS_PURPOSE_4

&CONTRACT_CONTACT_PHONE_NUM_4
&BUSINESS_PURPOSE_5
&CONTRACT_CONTACT_PHONE_NUM_5

We look forward to hearing from you shortly.

Sincerely,

Medicare Recovery Unit

EXHIBIT 6- INTENT TO REFER LETTER - 935 -

(Rev.316, Issued: 05-24-19, Effective: 10-01-19, Implementation: 10-07-19)

A. Contractors on HIGLAS shall use the list below for the appropriate system generated letters.

1. (APROV9353.pdf) Part A 935 Aggregate & Adjustment Claims Intent to Refer
2. (APROVRAC2.pdf) Part A 935 RAC Adjustment Claims Intent to Refer
3. (BPROV9353.pdf) Part B 935 Adjustment Claims Intent to Refer
4. (BPROVRAC2.pdf) Part B 935 RAC Adjustment Claims Intent to Refer

B. Contractors shall use the appropriate first paragraph below.

RE: Medicare Overpayment and Notice of Intent to Refer Debt to the Department of Treasury's Debt Collection Center for Cross Servicing and Offset of Federal Payments and Certain Eligible State Payments - MMA 935

Provider Name: &HPROVIDER_NAME Provider Number:
&HPROVIDER_NUMBER Outstanding Balance:
&DEMAND_AMOUNT

Dear Sir/Madam:

Part A and B overpayments subject to 935 (excluding RAC overpayments)

On &DATE_OF_ORIGINAL_DEMAND_LETTER, we sent a letter requesting that you refund an **overpayment subject to 935**, Limitation on Recoupment. As of this date, we have not yet received payment, a 935 appeal request, or an application for an extended repayment *schedule* and insufficient assigned Medicare claims have been submitted for collection of the balance. The outstanding amount due for this overpayment is &DEMAND_AMOUNT, which includes a principal amount of &INVOICE_BALANCE_AMOUNT and interest assessed in the amount of &INTEREST_BALANCE_AMOUNT.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

Or,

PART A and B 935 RAC Adjustment Claims

On &DATE_OF_ORIGINAL_DEMAND_LETTER, we sent a letter requesting that you refund a **Recovery Auditor-identified** overpayment subject to 935, Limitation on Recoupment. As of this date, we have not yet received payment, a 935 appeal request, or an application for an extended repayment *schedule* and insufficient assigned Medicare claims have been submitted for collection of the balance. The outstanding amount due for this overpayment is &DEMAND_AMOUNT, which includes a principal

amount of &INVOICE_BALANCE_AMOUNT and interest assessed in the amount of INTEREST_BALANCE_AMOUNT.

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

[Contractors shall include the following language in all ITR-935 letters after the first paragraph.]

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. This could occur should the amounts recovered through withholding (offset) of your claims be insufficient to satisfy the monthly amount of your extended repayment schedule or the amount needed to be current on the extended repayment *schedule*. Your debt will be referred under provisions of federal law, title 31 of the United States Code, § 3720A, which is a provision of the Debt Collection Improvement Act of 1996.

The Debt Collection Improvement Act of 1996 (DCIA) requires Federal agencies to refer delinquent debt to the Department of Treasury and/or a designated Debt Collection Center (DCC) for collection through cross servicing and/or the Treasury Offset Program (TOP). 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 TOP offsets can also be taken from eligible state payments you are entitled to.

The DCC shall 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 shall continue to accrue on the debt and you shall 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 debt 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.

Overpayments from Debtors Who Share Tax Identification Numbers

Section 1866(j)(6) of the Social Security Act authorizes the Secretary of Health and Human Services (the Secretary) to make any necessary adjustments to the payments of an applicable provider or supplier who shares a TIN with an obligated provider or supplier, one that has an outstanding Medicare overpayment. The Secretary is authorized to adjust the payments of such a provider or supplier regardless of whether it has been assigned a different billing number or National Provider Identification Number (NPI) from that of the provider or supplier with the outstanding Medicare overpayment.

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

If this matter is not resolved, 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 to Medicare is recouped, Title 42 CFR, § 447.30(g). These recoveries will be in addition to any recoupment from other Medicare funds due you until the full amount owed to Medicare is recovered.

Please read the following instructions carefully to determine what action you should 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 calendar days of the date of this letter. If, after sixty (60) calendar days from the date of this letter, we have not received such evidence, your debt, if it is still outstanding and eligible for referral, shall be referred to the Department of Treasury or its designated DCC for cross servicing/offset.

Repayment

Your debt shall not be referred to the Department of Treasury if you make payment in full. The past due amount owed to the Medicare Program as of the date of this letter includes current accrued interest. 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:

&CONTRACTOR_NAME &CHECK_ADDRESS1 &CHECK_ADDRESS2
&CHECK_CITY, &CHECK_STATE &CHECK_POSTAL_CODE

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 eligible under the extended repayment requirements at 42 C.F.R. 401.607(c)(2). 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.

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 *schedule*. Any repayment *schedule* (where one is approved) would run from the approval date.

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 your overpayment consultant at the following:

&BUSINESS_PURPOSE_1
&CONTRACT_CONTACT_PHONE_NUM_1
&BUSINESS_PURPOSE_2
&CONTRACT_CONTACT_PHONE_NUM_2
&BUSINESS_PURPOSE_3
&CONTRACT_CONTACT_PHONE_NUM_3
&BUSINESS_PURPOSE_4
&CONTRACT_CONTACT_PHONE_NUM_4
&BUSINESS_PURPOSE_5
&CONTRACT_CONTACT_PHONE_NUM_5

We look forward to hearing from you shortly. Sincerely,

Supervisor, Part A Overpayments &CONTRACTOR_NAME

EXHIBIT 7- INTENT TO REFER LETTER - UNFILED COST REPORTS ONLY-

(Rev.316, Issued: 05-24-19, Effective: 10-01-19, Implementation: 10-07-19)

A. Contractors on HIGLAS shall use the list below for the appropriate system generated letters.

1. (APROVCRUNF3.pdf) Part A Unfiled Cost Report Intent to Refer

B. Contractors not on HIGLAS shall use this letter as your template.

RE: Intent to Refer Letter Provider or Supplier Name: Provider/Supplier Number: &
Overpayment Amount: &HINVOICE_AMOUNT Outstanding
Balance: &DEMAND_AMOUNT

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

[Insert contractor opening paragraphs concerning the reason for the overpayment, date of determination and amount due. Refer to previous demand letters or other forms of contact regarding the debt.]

NOTE: If you have filed a bankruptcy petition or are involved in a bankruptcy proceeding please follow the instructions found at the end of this letter.

Your **unfiled cost report debt** to the Medicare Program is delinquent and, by way of this letter, we are providing notice that your debt **may** be referred to the Department of Treasury's **Debt Collection Center (DCC) for Cross Servicing and Offset of Federal Payments**. Your debt **may** be referred under the provisions of Federal law, Title 31 of the United States Code, § 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 debt 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 debt is

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 may 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.

For Individual Debtors Filing a Joint Federal Income Tax Return

The Treasury Offset Program automatically refers debt 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 in 42 CFR 447.30, and Section 1914 of the Social Security Act, CMS **may** instruct the State Medicaid Agency to offset the Federal share of any Medicaid payments due to you, your agency and/or related facilities. At that time, the offset **shall** remain in effect until the Medicare overpayment is paid in full.

Read the following instructions carefully to determine what action you should 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 **unfiled cost report debt**. This request must be submitted in writing to the address listed below. You have the 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 calendar** days of the date of this letter. If, after sixty (60) calendar days from the date of this letter, we have not received such evidence, your debt, if it is still outstanding and eligible for referral, **may** be referred to the Department of Treasury or its designated Debt Collection Center for cross servicing/offset. **NOTE: Unfiled Cost Report debts (including new ones) may be transferred to Treasury for cross servicing/offset, upon approval from CMS central/regional offices.**

Repayment

Your unfiled cost report debt(s) **shall not** be referred to the Department of Treasury if you submit the cost report or make the **payment in full**; otherwise, you will remain legally responsible for any amount not satisfied through the collection efforts.

Your check or money order for the amount due, 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 the 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. *You must forward documentation* supporting your bankruptcy status, along with a copy of this notice, to this office at the above address.

If you have any questions concerning this debt, please contact _____
at _____.

Sincerely,

[Signature of Certifying Official]