CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 287	**Date: JULY 13, 2007**
	Change Request 5605

Subject: FISS Recoupment and Claims Adjustment Process Changes- Limitation of Recoupment- Analysis and Design

I. SUMMARY OF CHANGES: This CR is to design system requirements and changes within the FISS system focusing on 935 overpayment recoupments. It is one of a series of CRs that are being issued designed to fully implement Section 1893(f)(2) and the final implementing regulation when published and in effect.

New / Revised Material
Effective Date: January 1, 2008
Implementation Date: January 7, 2008

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

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
N/A	

III. FUNDING:
No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2008 operating budgets.

IV. ATTACHMENTS:

One-Time Notification

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

Attachment – One-Time Notification

Pub. 100-20	Transmittal: 287	Date: July 13, 2007	Change Request: 5605

SUBJECT: FISS Recoupment and Claims Adjustment Process Changes- Limitation of Recoupment- Analysis and Design

Effective Date: **January 1, 2008**

Implementation Date: January 7, 2008

I. GENERAL INFORMATION

A. Background: Section 1893(f)(2), added by Section 935(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), requires CMS to change the way Medicare recoups certain overpayments. Before the MMA was enacted, if a provider or supplier elected to appeal an overpayment determination, there was no effect on Medicare's ability to recover the debt. This MMA provision requires that if a provider of services or a supplier seeks a reconsideration by a Qualified Independent Contractor (QIC) on an overpayment determination, CMS and its Medicare contractors may not recoup the overpayment until the date the decision on the reconsideration has been rendered. The QIC is the second level of appeal in the Medicare claims appeal process; the contractor redetermination is the first level of appeal. This provision does not apply to Part A cost report related overpayments. Section 1893(f)(2), the limitation on recoupment, also changed Medicare's obligation to pay interest to a provider or supplier whose appeal is successful at levels above the QIC.

On September 22, 2006, CMS published for public comment a proposed rule to implement Section 1893(f)(2). This proposed rule is not in effect and may be modified based on public comments received. However, certain features of the current claims adjustment process are incompatible with the limitation on recoupment and need to be changed to bring CMS into compliance with the final rule once published and in effect. Maximizing efficient adjustment processing of Medicare claims, the Fiscal Intermediary Standard System (FISS) currently adjusts a claim and if there are claims in the system, immediately recoups. Recovered amounts are included in the remittance advice to providers. For those Part A overpayments determined by a Medicare contractor and subject to 1893(f)(2), an alternate process is required which would enable the claims to be adjusted without immediate recoupment to allow the provider time to submit an appeal.

In addition, to the extent it is feasible and cost-effective to do so, certain new or revised overpayment recovery processes required to fully implement the limitation on recoupment should be automated. For planning and system design purposes, these changes should reflect the following approach. For Part A overpayments subject to Section 1893(f)(2), receipt of a timely and valid request for appeal (the contractor redetermination) triggers the limitation on recoupment. Contractors can recoup until then and retain the amount recouped unless and until the overpayment determination is reversed through the administrative appeal or judicial review process. If the contractor redetermination results in a full or partial affirmation of the overpayment, contractors can begin or resume recoupment starting 30 days after giving notice unless the provider appeals to the QIC in the interim. The contractor should cease or not begin recoupment if the QIC notifies the contractor that a valid and timely request for a reconsideration (second level appeal) has been received. Following final action by the QIC, the contractor can initiate or resume recoupment whether or not the provider subsequently appeals to the Administrative Law Judge, the third level of appeal. For a period of up to 60 days following final action by the QIC and resumption of recoupment, Medicare contractors should not issue a second demand letter, the intent to refer letter, nor proceed with referral to the Department of Treasury. Interest will continue to accrue under current policies but will not be assessed when recoupment is stopped at either the redetermination or reconsideration (first and second level of appeals).

B. Policy: This CR does not constitute policy to implement the limitation on recoupment. It is one of a series of CRs that are being issued designed to fully implement Section 1893(f)(2) and the final implementing regulation when published and in effect.

II. BUSINESS REQUIREMENTS TABLE

Use "Shall" to denote a mandatory requirement

Number	Requirement	Responsibility (place an "X" in each applicable column)										
		A/B MAC	DME MAC	FI	CARRIER	DMERC	RHHI	Shared-System Maintainers				OTHER
								FISS	MCS	VMS	CWF	
5605.1	The FISS system maintainers and contractors shall provide an initial draft analysis document clearly defining the assumptions that will be input to the coding.	X		X				X				
5605.1.1	The FISS system maintainers shall meet with CMS on a regular basis until such time that a process is in place for future implementation.	X		X				X				
5605.2	The FISS system maintainer shall create programming in the Part A shared system (FISS) to allow 935 overpayments to be adjusted in FISS, while delaying the recoupment until a later time.	X		X				X				
5605.2.1	The default recoupment time shall be 30 days from the 935 overpayment adjustment/demand letter date.	X		X				X				
5605.3	The FISS system shall bypass timely filing edits when processing these adjustments.	X		X				X				
5605.4	The FISS system shall generate demand letters for 935 overpayments.	X		X				X				
5605.5	If a valid request for a redetermination is received, recoupment is delayed in accordance with the policy requirements that are being developed.	X		X				X				
5605.5.1	The FISS system shall allow the Medicare contractor to manually change and/or turn off the recoupment timeframe when a valid request for a redetermination is received.	X		X				X				
5605.5.2	If a valid request for a redetermination is received and recoupment delayed, the FISS system shall allow the Medicare contractor to continue to collect other debts owed by the provider, but not allow any withholding	X		X				X				

Number	Requirement	Responsibility (place an "X" in each applicable column)										
		A/B MAC	DME MAC	FI	CARRIER	DMERC	RHHI	Shared-System Maintainers				OTHER
								FISS	MCS	VMS	CWF	
	or place in suspense, any monies related to this debt, while it is in the redetermination or QIC appeal status.											
5605.5.3	If a valid request for a redetermination is not received, recoupment shall systematically occur 30 days after the overpayment adjustment/demand letter date as stated in requirement 5605.2.1.	X		X				X				
5605.6	The FISS system shall accrue interest in accordance with the Medicare Financial Management Manual Pub. 100-06, chapter 4, section 30.	X		X				X				
5605.6.1	The FISS system shall calculate interest to accrue under current policies for overpayments but shall not assess or collect interest on a 935 overpayment while recoupment is stopped.	X		X				X				
5605.6.2	The FISS system shall also allow for all other overpayments not in appeal status to assess and collect interest if necessary and separately from the appealed overpayment.	X		X				X				
5605.7	The 935 overpayment shall remain on the FISS system while recoupment is pending.	X		X				X				
5605.8	The FISS system maintainer shall provide a unique remittance advice code and/or suspended claims reason code to identify these adjustments.	X		X				X				
5605.8.1	This code should advise the provider that the adjustment was made without recoupment but shall systematically recoup overpayment 30 days after the claims adjustment/demand letter date if a valid request for redetermination is not received.	X		X				X				
5605.9	The FISS system shall not net an underpayment against a 935 overpayment if a valid request for redetermination or QIC level appeal has been filed.	X		X				X				

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)										
		A/B MAC	DME MAC	FI	CARRIER	DMERC	RHHI	Shared-System Maintainers				OTHER
								FISS	MCS	VMS	CWF	
	None.											

IV. SUPPORTING INFORMATION

A. For any recommendations and supporting information associated with listed requirements, use the box below:
Use "Should" to denote a recommendation.

V. CONTACTS

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

Post-Implementation Contact(s): Theresa Jones-Carter (410) 786-7482 theresa.jones-carter@cms.hhs.gov

VI. FUNDING

A. For Fiscal Intermediaries, Carriers, and the Durable Medical Equipment Regional Carrier (DMERC):

No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2008 operating budgets.

B. For Medicare Administrative Contractors (MACs):

The contractor is hereby advised that this constitutes, technical direction as defined in your contract, CMS does not construe this as changes to the statement of work. The contractor is not obligated to incur costs in excess of the mounts 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.