

- On the basis of subsequently acquired evidence, or otherwise, you determine that there is no overpayment.

40.2 – Suspension of Payment (See Program Integrity Manual)

(Rev. 29, 01-02-04)

Medicare authority to withhold payment in whole or in part for claims otherwise determined to be payable is found in federal regulations at 42 CFR 405.370-377, which provides for the suspension of payments.

Suspension may be used when the contractor possesses reliable information that:

- Fraud or willful misrepresentation exists;
- An overpayment exists but the amount of the overpayment is not yet determined;
- The payments to be made may not be correct; or
- The provider fails to furnish records and other requested information. (Some examples include cost reports, credit balance reports, and form CMS-91.)

50 - Establishing Extended Repayment

(Rev. 29, 01-02-04)

Where the debtor does not comply with the first demand letter requesting that full refund of the overpayment be made, but acknowledges the existence of an overpayment, it may contact the FI or carrier to arrange for a repayment plan.

A debtor is expected to repay any overpayment as quickly as possible. If it cannot refund the total overpayment within 30 days after receiving the first demand letter, it should request an extended repayment plan immediately. However, an ERP request may be received and shall be reviewed at any time the overpayment is outstanding. The provider must explain and document its need for an extended (beyond 30 days) repayment plan.

A repayment plan may be established to recover all or part of an overpayment. Following the withhold guidelines in Chapter 4, §40 the FI or carrier shall offset any money owed to the provider prior to establishing a repayment plan. Some examples of monies owed to the provider include underpayments money held by suspension or money withheld from the provider based on Chapter 4, §40. When a repayment plan is used to recover part of an overpayment, the FI/Carrier recovers the remainder of the overpayment by withholding interim payments (See Chapter 4, §40), setoff of monies due the debtor, or from a lump-sum payment by the provider. Any approved ERP will run from the date of the initial demand letter.

Note: Once an ERP is established, the offset of an underpayment against the ERP is not automatic. If a Medicare underpayment is determined subsequent to an established ERP, the FI shall notify the provider in writing of the underpayment. The FI will permit the provider 15 calendar days following the date of notification to submit a statement (including any pertinent evidence) as to why the underpayment should not be offset.

If the provider does not respond in the required time, the FI shall offset the underpayment against the ERP. If the provider responds timely, the FI shall not take action to offset until it has completed its review of the documentation. Based on its review, the FI will make a determination as to whether the facts justify offsetting the underpayment. If the FI determines that offset is appropriate, in whole or in part, written notice will be sent to the provider. Such notice shall contain specific findings on the conditions upon which the offset was based, and an explanation for the final decision.

**50.1 – Documentation Required in an ERP Application--
Physician is a Sole Proprietor – Carrier Only**

(Rev. 29, 01-02-04)

The Carrier shall request the physician to complete and return a Form CMS-379, Financial Statement of Debtor and a copy of the physician's income tax filing for the most recent calendar year. A request for an extended repayment of 12 months or more must also be accompanied with at least one letter from a financial institution denying the debtor's loan request for the amount of the overpayment. Also, include a copy of the loan application with the denial letter from the bank.

**50.2 - Documentation Supporting a Request for Extended
Repayment – Provider is an Entity Other Than a Sole Proprietor**

(Rev. 29, 01-02-04)

The FI/Carrier shall request the provider to furnish the following:

- **Amortization Schedule**- this schedule shall contain the proposed repayment schedule, including length of schedule, dates of payment, and payment amount broken down between principal and interest for the life of the schedule
- **Balance sheets** - the most current balance sheet and the one for the last complete Medicare cost reporting period or the most recent fiscal year (preferably prepared and certified by the provider's accountant).

NOTE: If the time period between the two balance sheets is less than 6 months (or the provider cannot submit balance sheets prepared by its accountant), it must submit balance sheets for the last two complete Medicare reporting periods (providers that file a cost report) or last two complete fiscal years.

- **Income statements** - related to the balance sheets (preferably prepared by the provider's accountant).

CMS suggests that both the balance sheets and income statements include the following statements:

MISREPRESENTATION OR FALSIFICATION OF ANY INFORMATION CONTAINED
IN THIS BALANCE SHEET OR INCOME STATEMENT MAY BE PUNISHABLE BY
FINE AND/OR IMPRISONMENT UNDER FEDERAL LAW.

CERTIFICATION BY OFFICER OF ADMINISTRATOR

If the provider does not respond in the required time, the FI shall offset the underpayment against the ERP. If the provider responds timely, the FI shall not take action to offset until it has completed its review of the documentation. Based on its review, the FI will make a determination as to whether the facts justify offsetting the underpayment. If the FI determines that offset is appropriate, in whole or in part, written notice will be sent to the provider. Such notice shall contain specific findings on the conditions upon which the offset was based, and an explanation for the final decision.

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OF PROVIDER(S)
(For physicians/suppliers, "CERTIFICATION BY OFFICER/OWNER OF DEBTOR(S))

I HEREBY CERTIFY that I have examined the balance sheet and income statement prepared by _____ and that to the best of my knowledge and belief, it is a true, correct, and complete statement from the books and records of the provider.

Signed
Officer or Administrator of
Provider(s)
Title

Date

(For physicians/suppliers:
Signed
Officer or Owner of
Debtor(s)
Title)

- **Statement of Sources and Application of Funds** - for the periods covered by the income statements (see Exhibit 2 for recommended format).
 - **Cash flow statements** - for the periods covered by the balance sheets (see Exhibit 3 for recommended format). If the date of the request for an extended repayment schedule is more than 3 months after the date of the most recent balance sheet, a cash flow statement should be provided for all months between that date and the date of the request.
- In addition, whether or not the date of the request is more than 3 months after that of the most recent balance sheet, a projected cash flow statement should be included for the 6 months following the date of the request.
- **Projected cash flow statement** - covering the remainder of the current fiscal year. If fewer than 6 months remain, a projected cash flow statement for the following year should be included. (See Exhibit 3 for recommended format.)
 - **List of restricted cash funds** - by amount as of the date of request and the purpose for which each fund is to be used.
 - **List of investments** - by type (stock, bond, etc.), amount, and current market value as of the date of the report.
 - **List of notes and mortgages payable** - by amounts as of the date of the report, and their due dates.
 - **Schedule showing amounts** - due to and from related companies or individuals included in the balance sheets. The schedule should show the names of related organizations or persons and show where the amounts appear on the balance sheet--such as Accounts Receivable, Notes Receivable, etc

- **Schedule showing types** - and amounts of expenses (included in the income statements) paid to related organizations. The names of the related organizations should be shown.

- **Loan Applications** - Requests for extended repayment of 12 months or more. Have the debtor include at least one letter from a financial institution denying the debtor's loan request for the amount of the overpayment. Also, include a copy of the loan application with the denial letter from the bank.

- **FIs Only - The percentage of occupancy** - by type of patient (e.g., Medicare, Medicaid, private pay) and total available bed days for the periods covered by the income statements; and

All financial records must be for the business participating in the program. They should not be for the owner if the business is a partnership or a corporation. If the financial aspects of the business are managed by an outside facility, the provider's individual financial records must still be submitted as well as the financial records of the outside facility.

If a debtor is unable to furnish some of the documentation, it should fully explain why it is unable to. Where the debtor's explanation is reasonable and the documentation is otherwise acceptable, the FI/Carrier shall forward the request for extended repayment to the RO with its recommendation. It shall comply with *Chapter 4, §40* regarding recoupment of the overpayments pending receipt of the documentation and a decision on the extended repayment request.

50.3- Approval Process

(Rev. 29, 01-02-04)

Below is a chart detailing the requirements of a Medicare contractor for an extended repayment plan. Once the FI/Carrier completes these requirements a decision regarding approval must be made. If the FI/Carrier determines that the provider does not meet the requirements for an extended repayment plan the provider shall be notified in writing. If the FI/Carrier determines that the provider does meet the requirements for an extended repayment plan the following criteria shall be followed:

- If the ERP request is for 12 months or less the FI/Carrier shall notify the provider immediately in writing of the approval.
- If the ERP request is greater than 12 months the FI/Carrier must send the entire ERP package including the documentation prepared by the FI/Carrier to the servicing RO for approval.

The FI/Carrier has the option of altering the length of time when approving an ERP request. For example, if a provider requests 24 months, but the FI/Carrier feels that 12 months is sufficient the FI/Carrier can deny the 24 month request and extend an offer of a 12 month repayment plan. If the FI/Carrier recommends approval of an ERP that is over 12 months in length, the recommendation must be forwarded to the RO for approval.

The FI/Carrier may request additional financial information from the provider as well as financial information from the owner if the owner is requesting to submit personal capital to help repay the Medicare debt.

The FI/Carrier shall attempt to review and approve or deny or recommend approval to CMS within 20 days of receipt of the completed ERP application.

Requirements to be Completed before approval or denial	ERP request 12 months or less	ERP request greater than 12 months	ERP request asking for an unconventional payment arrangement
ERP Protocol (See Exhibit 1)	X	X	X
Analysis of financial statements	X	X	X
Review of Last 12 months of claim history	X	X	X
Payments on the claim floor	X	X	X
Outstanding Advance/Accelerated Payments (Accelerated Payments are FI only)	X	X	X
FI- Outstanding settlements	X	X	X
Outstanding Fraud Investigations	X	X	X
Send to RO for additional approval		X	X

Exhibit 1 - Protocol for Reviewing Extended Repayment Plan (ERP) - Provider/Physician Medicare Overpayments

Protocol for Reviewing Extended Repayment Plan (ERP)

Provider _____

Provider Number _____

(FIs Only) Cost Report FYE _____

(Carriers Only) Date(s) Overpaid _____

Overpayment Amount \$ _____

Date of Demand Letter _____ No. of Months Requested for ERP _____

Date ERP Approved/Not Approved (12 mos. or less) _____ No. of Mos. Approved _____

Date Referred to RO for Consideration _____

Name of FI/Carrier _____

Reviewed By _____ Date _____
FI/Carrier Analyst

Supervisor Review _____ Date _____
FI/Carrier Official

1. Summarize the major reasons why the overpayment occurred.

2. FI/Carrier reviews the documentation sent by the debtor for completeness. (Refer to §70.2 for required documentation.) It analyzes the financial data submitted to determine the availability of cash, marketable securities, accounts receivable, restricted and unrestricted endowment funds, or special funds. It considers whether these funds could be used for partial or full payment of the overpayment.

3. FI/Carrier performs the following calculations by using the most current financial data submitted by the provider to determine if it qualifies for an ERP.

a. Current Ratio

The current ratio relates the dollar value of current assets to the dollar value of current liabilities in order to evaluate an organization's ability to pay its current debt. Derived as:

$$\frac{\text{CURRENT ASSETS}}{\text{CURRENT LIABILITIES}} = \frac{\text{_____}}{\text{_____}}$$

This ratio defines the number of dollars held in current assets per dollar of current liabilities (e.g., it relates current assets to current liabilities). Multiple coverage of liabilities is desirable. Generally, high values for the current ratio imply a good ability to pay short-term obligations and thus a low probability of technical insolvency.

Normally, the FI/Carrier considers a current ratio of 2 to 1 adequate to meet current liabilities. However, a debtor with a current ratio (2 to 1 or greater) may have short-term payment problems if its current assets are not expected to be in liquid form (cash or short-term investments) in time to meet the expected payment dates of the current liabilities.

b. Quick Ratio

A liquidity ratio which measures the number of dollars of liquid assets (cash plus marketable securities plus accounts receivable) that are available per

dollar of current liabilities. Derived as:

$$\frac{\text{CASH} + \text{MARKETABLE SECURITIES} + \text{ACCOUNTS RECEIVABLE}}{\text{CURRENT LIABILITIES}} = \underline{\hspace{2cm}}$$

This is a more stringent measure of liquidity than the current ratio. The FI/Carrier uses it to determine the adequacy of cash, accounts receivable, and marketable securities to pay current liabilities.

Normally, the FI/Carrier considers a quick ratio of 1.5 to 1 adequate to meet current liabilities. However, a debtor with a high quick ratio may have short-term payment problems if there are excessive amounts of slow-paying or doubtful accounts receivable which may not be turned into cash soon enough to meet maturing current liabilities. Conversely, a low quick ratio may not imply a future liquidity crisis if current liabilities include terms that will not require payment from existing current assets.

4. The FI, for institutional debtors, determines if there are any settlements (interim rate adjustments or cost report) in process which could be used to offset the outstanding overpayment.
5. Based upon the previous steps, the FI/Carrier summarizes whether or not a repayment plan should be approved or denied. If approval is recommended, it indicates the number of months, how it calculated the monthly payment and the reason(s) for the approval. If denial is recommended, it indicates the reason(s).

Exhibit 2 - Statement of Source and Application of Funds Period Covered

STATEMENT OF SOURCE AND APPLICATION OF FUNDS
FOR THE PERIOD _____

Funds Provided by:

Operations - Net income for the period	\$XXXX
Add: Charges not affecting working capital (depreciation, amortization, etc.)	XXXX \$XXXX
Less: Operating revenues not affecting working capital	XXXX
Total fund provided by Operation	\$XXXX
Long term loans	XXXX
Unrestricted cash donations	XXXX

Other (identify)

XXXX

Total Funds Provided

\$XXXX

STATEMENT OF SOURCE AND APPLICATION OF FUNDS
 FOR THE PERIOD _____

Funds Applied to:

Retirement of long-term obligations (mortgages, notes, bonds, etc.)		\$XXXX
Purchase of equipment		XXXX
Purchase of land	XXXX	
Dividends to stockholders		XXXX
Other (identify)		XXXX
Total Funds Applied		-XXXX
Net Increase (Decrease) in Working Capital	*\$XXXX	

Working Capital* (end of period) <u>(date)</u>		XXXX
Less: Working Capital* (beginning of period) (date)		-XXXX
Net Increase (Decrease) in Working Capital	*\$XXXX	

*Current Assets less Current Liabilities

Exhibit 3, Cash Flow Statement Period Covered

CASH FLOW STATEMENT
FOR THE PERIOD

Cash provided by:

Operations (<i>net</i>) (Schedule A) (See Exhibit 4)	\$XXXX
Cash donations (unrestricted)	XXXX
Long-term borrowing	XXXX
Investment earnings (cash dividends, interest)	XXXX
Sale of long-term investments	XXXX
Sale of equipment	XXXX
Issuance of bonds	XXXX
Decrease in current assets – other than Accounts Receivable, Prepaid Expenses, and Inventory	XXXX
Increase in current liabilities – other than Accounts Receivable, Prepaid Expense, and Inventory	XXXX
Others	<u>XXXX</u>
Total Cash Provided	\$XXXX

CASH FLOW STATEMENT
FOR THE PERIOD

Cash applied to:

Purchase of equipment	\$XXXX
Payment of long-term debt	XXXX
Payment of bond redemption fund	XXXX
Purchase of long-term investments	XXXX
Payment of dividends	XXXX
Purchase of land and/or building (purchase price less mortgage, capital stock and non-cash assets given toward purchase)	XXXX
Increases in current assets - other than Accounts Receivable, Prepaid Expenses, and Inventory	XXXX
Decreases in current liabilities - other than Accounts Payable and Prepaid Income	<u>XXXX</u>
Other	XXXX
Total Cash Applied	<u>XXXX</u>
Increase (Decrease) in Cash	\$XXXX

Cash at end of period (date)	\$XXXX
Less: Cash at beginning of period (date)	<u>XXXX</u>
Increase (Decrease) in Cash	<u>XXXX</u>

Exhibit 4, Projected Cash Flow Statement Cash From Operations (Schedule A) Period Covered

submitted by the provider. (See §

initial contact between the FI/Carrier
payment;

responsibility (including demand letter
the ERP (including telephone conversation
of the overpayment; cost report
any repayments; dates and amount
account.

amount of the overpayment, claim paid

reports in which the overpayments appear
tion it has on the financial status
audits and other sources such as

proposed repayment plan and rationale

recommendation and supporting
repayment plan protocol (See Exhibit
; and

opinion, based on experience, as to

**50.4 - Sending an Approved Extended
-04)**

payment plan has been approved, the
to ascertain whether recoupment is
becomes apparent that the repayment
debtedness within the time period
ably the renegotiation of the amount
will be recouped within the time
to the RO any significant change
ation that the provider misstated
question of its ability to refund to
the RO immediately by telephone
problem.

**50.4 - Sending an ERP Request to the Regional
to Department of Treasury
-04)**

Submitting an ERP request the FI/Carrier
the provider/supplier's ability to repay
reviewed. This includes ERP requests

**PROJECTED CASH FLOW
CASH FROM OPERATIONS (SCHEDULE A)**

Net Income (or Net Loss)

Increases:	Depreciation expense	\$XXXX
	Loss from sale of equipment	XXXX
	Decrease in net Accounts Receivable	XXXX
	Decrease in Prepaid Expense	XXXX
	Decrease in Inventory	XXXX
	Increase in Accounts Payable	XXXX
	Increase in Prepaid Income	XXXX
	Others	XXXX
	Gross Cash from Operations	\$XXXX
Decreases:	Gain from sale of equipment	\$XXXX
	Increase in net Accounts Receivable	XXXX
	Increase in Prepaid Expense	XXXX
	Increase in Inventory	XXXX
	Decrease in Accounts Payable	XXXX
	Decrease in Prepaid Income	XXXX
	Others	XXXX
	Net Cash from Operations	

**50.4 - Sending the ERP Request to the Regional
(Rev. 29, 01-02-04)**

After the FI/Carrier has reviewed the documentation submitted in request, it sends its recommendation to the RO for approval if the over 12 months in length. It submits the following: