
42 C.F.R. § 405.378

Interest charges on overpayment and underpayments to providers, suppliers, and other entities.

(a) *Basis and purpose.* This section, which implements sections 1815(d), 1833(j) and 1893(f)(2)(B) of the Act and common law, and authority granted under the Federal Claims Collection Act, provides for the charging and payment of interest on overpayments and underpayments to Medicare providers, suppliers, HMOs, competitive medical plans (CMPs), and health care prepayment plans (HCPPs).

(b) *Basic rules.* (1) CMS will charge interest on overpayments, and pay interest on underpayments, to providers and suppliers of services (including physicians and other practitioners), except as specified in paragraphs (f) and (h) of this section.

(2) Except as provided in paragraph (j) of this section, interest accrues from the date of the final determination as defined in paragraph (c) of this section, and either is charged on the overpayment balance or paid on the underpayment balance for each full 30-day period that payment is delayed.

(c) *Definition of final determination.* (1) For purposes of this section, any of the following constitutes a final determination:

(i) A Notice of Amount of Program Reimbursement (NPR) is issued, as discussed in §§ 405.1803, 417.576, and 417.810, and either—

(A) A written demand for payment is made; or

(B) A written determination of an underpayment is made by the intermediary after a cost report is filed.

(ii) In cases in which an NPR is not used as a notice of determination (that is, primarily under part B), one of the following constitutes a final determination—

(A) A written determination that an overpayment exists and a written demand for payment; or

(B) A written determination of an underpayment.

(iii) Other examples of cases in which an NPR is not used are carrier reasonable charge determinations under subpart E of this part, interim cost settlements made for HMOs, CMPs, and HCPPs under §§ 417.574 and 417.810(e) of this chapter, and initial retroactive adjustment determinations under § 413.64(f)(2) of this chapter. In the case of interim cost settlements and initial retroactive adjustment determinations, if the debtor does not dispute the adjustment determination within the timeframe designated in the notice of the determination (generally at least 15 days), a final determination is deemed to have been made. If the provider or supplier does dispute portions of the determination, a final determination is deemed to have been made on those portions when the intermediary issues a new determination in response to the dispute.

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