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◆ CMS said it still plans to revise the Medicare 60-day overpayment refund rule, according to the 2025 final rule on policy and technical changes to Medicare Advantage (MA), which was published in the April 23 Federal Register.^[1] CMS proposed a change in the definition in the 2024 version of the MA rule and now says it “has received inquiries regarding this proposal and want to be clear that it remains under consideration and that CMS intends to issue a final rule to revise the definition of ‘identified’ in the overpayment rules as soon as is reasonably possible.” The 60-day rule—which came to life in the Affordable Care Act—requires providers to report and return Part A and B overpayments within 60 days of identifying them. According to the 2016 regulation interpreting the 60-day rule, providers are obligated to use reasonable diligence to identify overpayments by doing proactive compliance activities to monitor for overpayments and investigating potential overpayments in a timely manner. CMS defined timely as within six months of receiving “credible information” about an overpayment. In the 2024 MA rule, CMS proposed replacing “reasonable diligence” with language more consistent with the False Claims Act’s knowledge standard (i.e., an overpayment is identified when the provider has actual knowledge of the existence of the overpayment or acted in reckless disregard or deliberate ignorance of the overpayment). Although the proposed change appeared in an MA rule, it would apply to the Medicare overpayment provisions of Parts A, B, C and D.

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