

## § 401.623

(3) Whether assets have been concealed or improperly transferred by the debtor.

(b) *Basis for termination of collection action.* Bases on which CMS may terminate collection action on a claim include the following—

(1) *Inability to collect a substantial amount of the claim.* CMS may terminate collection action if it determines that it is unable to collect, or to enforce collection, of a significant amount of the claim. In making this determination, CMS will consider factors such as—

- (i) Judicial remedies available;
- (ii) The debtor's future financial prospects; and
- (iii) Exemptions available to the debtor under State or Federal law.

(2) *Inability to locate debtor.* In cases involving missing debtors, CMS may terminate collection action if—

- (i) There is no security remaining to be liquidated;
- (ii) The applicable statute of limitations has run; or
- (iii) The prospects of collecting by offset, whether or not an applicable statute of limitations has run, are considered by CMS to be too remote to justify retention of the claim.

(3) *Cost of collection exceeds recovery.* CMS may terminate collection action if it determines that the cost of further collection action will exceed the amount recoverable.

(4) *Legal insufficiency.* CMS may terminate collection action if it determines that the claim is legally without merit.

(5) *Evidence unavailable.* CMS may terminate collection action if—

- (i) Efforts to obtain voluntary payment are unsuccessful; and
- (ii) Evidence or witnesses necessary to prove the claim are unavailable.

### § 401.623 Joint and several liability.

(a) *Collection action.* CMS will liquidate claims as quickly as possible. In cases of joint and several liability among two or more debtors, CMS will not allocate the burden of claims payment among the debtors. CMS will proceed with collection action against one debtor even if other liable debtors have not paid their proportionate shares.

## 42 CFR Ch. IV (10–1–24 Edition)

(b) *Compromise.* Compromise with one debtor does not release a claim against remaining debtors. Furthermore, CMS will not consider the amount of a compromise with one debtor to be a binding precedent concerning the amounts due from other debtors who are jointly and severally liable on the claim.

### § 401.625 Effect of CMS claims collection decisions on appeals.

Any action taken under this subpart regarding the compromise of a claim, or suspension or termination of collection action on a claim, is not an initial determination for purposes of CMS appeal procedures.

## Subpart G—Availability of Medicare Data for Performance Measurement

SOURCE: 76 FR 76567, Dec. 7, 2011, unless otherwise noted.

### § 401.701 Purpose and scope.

The regulations in this subpart implement section 1874(e) of the Social Security Act as it applies to Medicare data made available to qualified entities for the evaluation of the performance of providers and suppliers.

### § 401.703 Definitions.

For purposes of this subpart:

(a) *Qualified entity* means either a single public or private entity, or a lead entity and its contractors, that meets the following requirements:

- (1) Is qualified, as determined by the Secretary, to use claims data to evaluate the performance of providers and suppliers on measures of quality, efficiency, effectiveness, and resource use.
- (2) Agrees to meet the requirements described in this subpart at §§ 401.705 through 401.721.

(b) *Provider of services (referred to as a provider)* has the same meaning as the term “provider” in § 400.202 of this chapter.

(c) *Supplier* has the same meaning as the term “supplier” at § 400.202 of this chapter.

(d) *Claim* means an itemized billing statement from a provider or supplier that, except in the context of Part D prescription drug event data, requests