

**§ 405.375 Time limits for, and notification of, administrative determination after receipt of rebuttal statement.**

(a) *Submission and disposition of evidence.* If the provider or supplier submits a statement, under § 405.374, as to why a suspension of payment, offset, or recoupment should not be put into effect, or, under § 405.372(b)(2), why a suspension should be terminated, CMS, the intermediary, or carrier must within 15 days, from the date the statement is received, consider the statement (including any pertinent evidence submitted), together with any other material bearing upon the case, and determine whether the facts justify the suspension, offset, or recoupment or, if already initiated, justify the termination of the suspension, offset, or recoupment. Suspension, offset, or recoupment is not delayed beyond the date stated in the notice in order to review the statement.

(b) *Notification of determination.* The Medicare contractor must send written notice of the determination made under paragraph (a) of this section to the provider or supplier. The notice must—

(1) In the case of offset or recoupment, contain rationale for the determination; and

(2) In the case of suspension of payment, contain specific findings on the conditions upon which the suspension is initiated, continued, or removed and an explanatory statement of the determination.

(c) *Determination is not appealable.* A determination made under paragraph (a) of this section is not an initial determination and is not appealable.

[61 FR 63747, Dec. 2, 1996]

**§ 405.376 Suspension and termination of collection action and compromise of claims for overpayment.**

(a) *Basis and purpose.* This section contains requirements and procedures for the compromise of, or suspension or termination of collection action on, claims for overpayments against a provider or a supplier under the Medicare program. It is adopted under the authority of the Federal Claims Collection Act (31 U.S.C. 3711). Collection and compromise of claims against Medicare

beneficiaries are explained at 20 CFR 404.515.

(b) *Definitions.* As used in this section, *debtor* means a provider of services or a physician or other supplier of services that has been overpaid under title XVIII of the Social Security Act. It includes an individual, partnership, corporation, estate, trust, or other legal entity.

(c) *Basic conditions.* A claim for recovery of Medicare overpayments against a debtor may be compromised, or collection action on it may be suspended or terminated, by the Centers for Medicare & Medicaid Services (CMS) if:

(1) The claim does not exceed \$100,000, or such higher amount as the Attorney General may from time to time prescribe, exclusive of interest; and

(2) There is no indication of fraud, the filing of a false claim, or misrepresentation on the part of the debtor or any director, partner, manager, or other party having an interest in the claim.

(d) *Basis for compromise.* A claim may be compromised for one or more of the following reasons:

(1) The debtor, or the estate of a deceased debtor, does not have the present or prospective ability to pay the full amount within a reasonable time;

(2) The debtor refuses to pay the claim in full and the United States is unable to collect the full amount within a reasonable time by legal proceedings;

(3) There is real doubt the United States can prove its case in court; or

(4) The cost of collecting the claim does not justify enforced collection of the full amount.

(e) *Basis for termination of collection action.* Collection action may be terminated for one or more of the following reasons:

(1) The United States cannot enforce collection of any significant sum;

(2) The debtor cannot be located, there is no security to be liquidated, the statute of limitations has run, and the prospects of collecting by offset are too remote to justify retention of the claim;

(3) The cost of further collection action is likely to exceed any recovery;