



CMS Finalizes the 60 Day Overpayment Rule

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03.09.2016

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The Department of Health and Human Services' (HHS) Center for Medicare and Medicaid Services (CMS) published its final rule on Friday, February 12, 2016. The final rule clarifies two key sections of the often described 60-Day Overpayment Rule.

The statutory 60-Day Overpayment Rule is a product of the Affordable Care Act, which established a new section of the Social Security Act, Section 1128j(d)(1). The statute requires the recipient of an overpayment to report and return the overpayment to the government within 60 days after the date on which the overpayment was "identified." The language in the statute has caused much concern and confusion among health care providers because if an overpayment is not returned by the 60-day deadline, the overpayment is considered a reverse false claim under the federal False Claims Act and subjects the health care provider to treble damages and penalties up to \$11,000 per claim. Thus, the date an overpayment is "identified" is extremely important because the moment an overpayment is "identified" the 60-day deadline to report and return an overpayment starts to run.

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