MEDICAID PROGRAM INTEGRITY MANUAL
CHAPTER 11 – STATE REPORTING OF OVERPAYMENTS – FORM CMS 64

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(Rev. 1, Issued: 09-23-11)

11000 – INTRODUCTION

(Rev. 1, Issued: 09-23-11, Effective: 09-23-11, Implementation: 09-23-11)

The **Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program** (Form CMS 64) is a quarterly statement of actual program costs and administrative expenditures for which States are entitled to Federal reimbursement under the authority of Title XIX of the Act. Administrative expenses associated with the State's program integrity activities are reported specifically on Line 20, From CMS 64.10 (Expenditures for State and Local Administration for the Medical Assistance Program). Form CMS 64 is also the vehicle for adjustments made to correct overpayments and underpayments.

Spending reported on Form CMS 64 is a tabulation of actual, documented Medicaid expenditures, drawn from source documents such as invoices, cost reports and eligibility records. If a State is unable to document a claim for expenditures made in the current quarter, the claim must be withheld until it can be supported. The State then reports the amount on a future Form CMS 64 as a prior period adjustment. Spending therefore reflects all expenditures made during the quarter, not all services used.

The sections of the Form CMS 64 applicable to the MIP are described in more detail, below.

11005 – GENERAL

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Fraud, Waste and Abuse Improper Payments

This is the amount paid by a Medicaid Agency to a provider which is in excess of the amount allowed for benefit services described under the approved State plan for medical assistance and is due to fraud, waste or abuse.

Note: Overpayments arising from the Federal matching for **administration** are not considered under section 9. In addition, overpayments and collections resulting from probate and third party liabilities are not considered under Section 9.

Reporting the Identification and Collection of Fraud, Waste and Abuse Improper Payments

Both the identification and the collection of fraud, waste and abuse improper payments must be reported on the **Summary Sheet (Form CMS 64 Summary)** and the Line 9.C.1 feeder form (Form CMS 64.9C1) and Form CMS 64.9O that feeds into Line 10c. In addition, an overpayment can be reported as identified but not yet collected. Line 9.C.1 is for collections and line 10.C is for amounts identified but not yet collected.

Under section 1903(d)(2) of the Act (as amended by section 6506 of the Affordable Care Act), States have up to one year from the date of discovery of an overpayment for

Medicaid services to recover, or to attempt to recover, such overpayment before making an adjustment to refund the Federal share of the overpayment. Except in the case of overpayments resulting from fraud the adjustment to refund the Federal share must be made no later than the deadline for filing the Form CMS 64 for the quarter in which the one-year period ends, regardless of whether the State recovers the overpayment. Previously, States were allowed up to 60 days from the date of discovery of an overpayment to recover such overpayment before making the adjustment to the Federal share.

In addition, Section 6506(a)(1)(B) of the Affordable Care Act added new language to section 1903(d)(2) the Act pertaining to overpayments made resulting from fraud. Specifically, when a State has been unable to recover overpayments resulting from fraud within one year of discovery because of an ongoing judicial or administrative process, the State will have until 30 days after the conclusion of judicial or administrative processes to recover such overpayments before making the adjustment to the Federal share. Previously, the Act did not distinguish between overpayments due to fraud and other overpayments, although Federal regulations at 42 CFR section 433.316 provide that the date of discovery of an overpayment resulting from fraud or abuse is determined differently than for other types of overpayments. The terms "fraud" and "overpayment" are defined at 42 CFR sections 433.304 and 455.2. (See also – Chapter 1, Section 1035 – Overpayment and Errors Versus Fraud, Waste and Abuse)

Reporting and Returning Medicaid Overpayments Not Due to Fraud and Abuse

The State Medicaid Agency must refund the Federal share of overpayments at the end of the one-year period following discovery of the overpayment, whether or not the State has recovered the overpayment from the provider. Federal regulations at 42 CFR section 433.316(c) describe when an overpayment not due to fraud or abuse is discovered. The Federal share of the overpayment collection is to be reported on the Form CMS 64 in the first quarter following the providers report and return of the overpayment. The State has one year to continue collection efforts following the report before the balance of the reported overpayment must be reported as an identified but not collected overpayment on Line 10.C of the Form CMS 64.

11010 – SOURCES OF OVERPAYMENTS

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Detection of improper payments resulting from fraud, waste and abuse is done through various Medicaid program integrity efforts. Examples include:

- Analysis and data mining;
- Referrals from a State Agency;
- RACs;
- Provider self-reporting of overpayments;
- MICs;
- Provider audits; and
- Other.

11015 – Overpayment Transaction Codes (Reserved for Future Use)

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Codes are used to identify the characteristics of the overpayments. The CMS uses the information for monitoring, policy development and reporting on program integrity activities.

Transaction Codes to identify types of Providers

01 – hospital;
02 – hha;
03 – pharmacy; and
04 – ambulance

Transaction Codes to Identify Causes of Overpayments

01 – duplicate claim payment error by fiscal agent;
02 – duplicate claim payment error by provider;
03 – rate adjustment; and
04 – coding/billing error by provider

Note: For overpayments identified by the MIC and recovered by the State the CMS will add additional transaction codes to capture the NPI and the MIC report number.

11020 – Interest Received on Medicaid Fraud, Waste and Abuse Recoveries

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Interest collected on an overpayment should be reported on line 3A of the Form CMS 64 summary sheet.

11025 – State Reporting of Underpayments Identified by RACs

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Underpayments identified by State program integrity RACs are to be identified and reported separately.

11030 – Overpayments Identified by the State but Not Collected in One Year from Identification

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This form is used to provide detail about overpayments that have been identified but which have not yet been collected and the time period for collection has passed.

11035 – FEEDER FORM CMS 64.9C1 (COLLECTED) THAT FLOWS TO CMS 64 LINE 9C AND FEEDER FORM CMS 64.9O THAT FLOWS TO THE CMS 64 LINE 10C (NOT YET COLLECTED)

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The Form CMS 64.9C1 feeder form is used to provide detail about the fraud, waste and abuse collection efforts and flows into line 9c of the Form CMS 64. The Form CMS 64.9O feeder form that flows into line 10c of the Form CMS 64 is used to provide detail about overpayments that have been identified **but not yet collected**. The data reported on the feeder forms flow directly to the Form CMS 64 Summary sheet. States should enter the data following the guidance outlined below.

CMS-Feeder Form 64.9c1

Line 1- Amounts identified and collected from State PI activities

Identifies the total overpayments collected from both line 1A and 1B whose source was a State Program Integrity initiative, protocol, program, or audit.

Line 1A-Data mining activities

Used to report overpayment amounts collected as a result of activities that used automated processes/technologies to sift through databases. Data mining uncovers trends, patterns, predictors, and correlations that identified overpayments that resulted in a notice of overpayment or caused formal recoupment action to begin. The data mining may/may not have included a provider audit but did result in an identified overpayment and a reportable collection. This also includes data mining activities conducted by the State's Surveillance Utilization Review Subsystem (SURS) unit or other staff.

Line 1B- Program Integrity (PI) Provider Audits

Used to report overpayments collected from State onsite or desk audit investigations (not Federal MIC audits) for both institutional and non-institutional providers involving potential fraud, waste or abuse (e.g., services not rendered, services not medically necessary, potential duplicates, services paid from wrong fee schedule, and upcoding, etc.) Generally, the review involves looking at source documentation and is not solely reliant on data mining detection. As noted above data mining overpayments and collections are reported on line 1A.

Example 1: Joe Collect's Ambulance was investigated by the State and a notice of a $10,000 overpayment was sent to the provider on April 1, 2010. The provider requested and received an approval to repay the overpayment in installments over a 12 month repayment schedule. The provider continues to make monthly payments and those payments collected (not the full amount of the overpayment) during that quarter are to be reported on line 1B of the 9c1 feeder form for that quarter. However, on April 1, 2011 a $1000 unpaid balance remains. That balance needs to be reported on line 1

(overpayments not collected) of the Form CMS 64.9O which flows into line 10c (Overpayment Adjustments) on the Form CMS 64 Summary.

Example 2: Joe Collect's Ambulance appeals the $10,000 overpayment in Example 1 on May 1, 2010. On July 1, the appeal finds that the overpayment is reduced to $7,000. Assuming that Federal share amounts were properly returned previously, the State enters a $3,000 decreasing adjustment on line 2 of the Form CMS 64.9O which flows into line 10c on the Form CMS 64 Summary.

Line 1C- Other

Line 1C captures overpayments that cannot be entered on any other line 1 activity or any other line on the 64.9c1 feeder form. Line 1C should be used only when the other lines do not apply and the work effort is derived from State PI activities.

Line 2-MFCU Investigations

Used to report overpayment amounts collected from investigations conducted by the State's MFCU.

Line 3- Overpayments Collected from Settlements or Judgments

Used to report overpayments collected from settlements and/or judgments against a Medicaid provider for violations of Medicaid laws, rules, regulations or policies. A settlement occurs when there is a negotiated agreement of the overpayment amount between the State and the provider. Either full or partial collections may be made here. However, the balance of the overpayment that is not collected one year from the date of the discovery must be reported on line 1 (overpayments not collected) of the Form CMS 64.9O which flows into line 10c (Overpayment Adjustments) on the Form CMS 64 Summary in the quarter in which the one year ends (per SMD letter #10-014 issued July 2010).

Example: On August 1, 2010, the State and a provider agree on the amount of an overpayment after a protracted discussion and negotiation. The provider begins repayment of the overpayment on August 15, 2010 and every month thereafter on the 15th of the month. For the 3rd quarter Form CMS 64 reporting, the State would report collections for two months, August and September, and for every quarter thereafter that collections are received on line 3 of the 9c feeder form. However, at the end of one year a balance of $5,000 remains. The State must report the $5,000 balance on line 1 (overpayments not collected) of the Form CMS 64.9O which flows into line 10c (Overpayment Adjustments) on the Form CMS 64 Summary for the quarter in which the one year ends.

Line 4- Civil Monetary Penalties

Used to report overpayment amounts identified from penalties, fines, or other sanctions against a Medicaid provider for conduct that violates Federal and/or State statutes and regulations governing the Medicaid program.

Collections may be made by the Federal government as part of Civil Monetary Penalty (CMP) actions. Where a CMP action is taken, and the provider returns an overpayment to the Federal government, the State share is returned by a U.S. Treasury check. In these instances, return of the overpayment is recognized by reporting a Line 9.C adjustment. Since the Federal government obtains the Federal share of the overpayment, the CMS does not recognize the decreasing adjustment for Federal funding purposes.

Collections may be made by the State or local entity as part of CMP actions. Where a CMP action is taken and the State collects the Federal and State share, the return of the overpayment is recognized by reporting a Line 9.C adjustment. Also include is a footnote identifying the CMP collection, the total computable amount and the Federal share. Since the Federal government has not obtained the Federal share of the overpayment, the CMS includes the adjustment in the grant award computation.

Line 5 – CMS Medicaid Integrity Contractors

Used to report overpayment amounts identified from the Federal contractors (e.g., MIC audits) procured to review Medicaid providers, conduct audits of claims, and identify overpayments per section 1936 of Act.

Line 6 – Other PI Activities

Overpayment amounts identified from other PI activities not specified in lines 1-5.

Transmittals Issued for this Chapter

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R1MPI	09/23/2011	Initial Publication of Manual	09/23/2011	NA

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