CMS Overpayment Rule Update
When Does the 60-Day Clock Start?

We wrote in our February *Client Advisor* that the Centers for Medicare & Medicaid (CMS) drafted a proposed rule requiring health care providers and suppliers to report and return any overpayments within 60 days of identification. CMS has now provided some examples of when a provider should officially consider itself to have identified an overpayment, starting the 60-day clock for issuing a report and repayment of those funds. These include:

- Learning that a patient died before the service date in question;
- Determining that it was reimbursed for services that were incorrectly coded or that an ineligible provider delivered; or
- Identifying a significant increase in reimbursement without any obvious explanation.

Public comments were due to CMS in mid-April. Based on CMS's draft, overpayments received within the past ten (10) years would potentially be covered under the rule, as opposed to four (4) years under current claims-reopening rules. If the rule is implemented, non-compliant providers could be found to have violated the False Claims Act and face the penalties provided for under that law.