



## 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.

---

**DISCLAIMER:** The information contained herein is provided by Glaser & Weiner, LLP for informational purposes only. These materials should not be considered as, or as a substitute for, legal advice and they are not intended to nor do they create an attorney-client relationship. Because the materials included here are general, they may not apply to your individual legal or factual circumstances. This document contains information that may be modified or rendered incorrect by future legislative or judicial developments. You should not take (or refrain from taking) any action based on the information you obtain from this document without first obtaining professional counsel. It is possible that under the laws, rules or regulations of certain jurisdictions, this may be construed as an advertisement or solicitation. © 2012 Glaser & Weiner, LLP. All Rights Reserved.