

## Blog Post

# New Consequences for Unpaid Medicare Overpayments

February 26, 2018

For years, CMS has had the authority to refuse to enroll new Medicare providers if they or their owners have an unpaid Medicare overpayment, but CMS was not exercising this authority. Now, it appears that CMS is going to start. In January, CMS published [Transmittal 1998](#) announcing that it intends to begin denying provider enrollment applications, or change-of-ownership applications, where the provider, supplier or owner has an unpaid Medicare overpayment. The term “owner” includes any individual or entity that has a partnership interest in, or that has a 5% or more direct or indirect ownership interest in the enrolling provider. It is possible to foresee situations where an enrolling provider’s organization has an owner who previously owned another company that has an unpaid overpayment. This situation can create real headaches for companies and individuals who are actively involved in the acquisition of existing health care providers or the creation of new ones.

The provision in question is straightforward when the enrolling provider, supplier or owner has an existing debt. CMS may, but is not required, to deny the application. There are more contingencies when it is revealed that any of the owners of the company seeking to enroll a provider has a Medicare debt with a former enrolled provider. CMS may only deny the application if the owner left the prior company with the Medicare debt within 1 year before or after the

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company's voluntary termination, involuntary termination, or revocation. Further, if that debt is on appeal, then CMS will not deny the application. The ramped up enforcement of the rule was scheduled to be effective April 1, 2018, but CMS officials state that the implementation date is being pushed back. Nevertheless, it is crucial for active Medicare providers in the healthcare industry to make sure that Medicare debts are properly handled so they don't come back to haunt them. Qualified healthcare counsel should be consulted.

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