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**CMS AGREES TO TEMPORARY HALT IN EFFORTS TO RECOVER
PREMIUM OVERPAYMENTS**

In response to a lawsuit filed this past Friday, September 15, the Centers for Medicare and Medicaid Services (CMS) today agreed to stop mailing letters to the 230,000 Medicare beneficiaries who received incorrect Part D premium refunds in August and to remove all material concerning the recovery of the overpayments from its website before the end of the day.

“This is an important first step in correcting the government’s refusal to inform beneficiaries who received the premium refunds of their right to seek waiver of recovery of the refunds,” said Gill Deford of the Center for Medicare Advocacy, Inc. The Center represents Action Alliance of Senior Citizens and Gray Panthers, two beneficiary organizations, in litigation challenging the Department of Health and Human Services’ inadequate process for recovering the overpayments.

Waiver of recovery where the beneficiary is not at fault in causing the overpayment and where certain other conditions exist is provided by statute for many government benefit programs in recognition of the hardship that recovery might cause for beneficiaries with fixed low incomes. As the plaintiffs note in their request for an injunction against the government, the Medicare Payment Advisory Commission reports that 51% of Medicare beneficiaries have incomes under 200% of federal poverty limits.

“The next steps,” said Deford, “are for CMS to return monies already repaid and inform all beneficiaries who received the incorrect refunds of their right, under federal law and the US Constitution, to seek waiver of recovery.” These additional steps are the subject of a motion for a preliminary injunction, which will be argued next week.

According to the Center, the law is clear on beneficiaries’ rights in this area. The organization earlier tried to forestall litigation by asking Dr. Mark McClellan, Administrator of CMS, to redraft the letter sent to beneficiaries concerning recoupment to include notice of their rights to waiver in certain circumstances. CMS was unwilling to do so.

The hearing on Preliminary Injunction motion will be held Tuesday, September 26 at 4:15 in the courtroom of Judge Henry Kennedy in federal courthouse in Washington, DC.

For more information, contact Gill Deford at 860-456-7790 or Patricia Nemore at 202-216-0028.