EM - Emergency Message   **Effective Date:** 11/19/2020

Identification Number:	**EM-20037 SEN REV**
Intended Audience:	All RCs/ARCs/ADs/FOs/TSCs/PSCs/OCO/OCO-CSTs/OHO/OARO
Originating Office:	DCO OPSOS
Title:	**Special Overpayment and Waiver Processing**
Type:	EM - Emergency Messages
Program:	**Title II (RSI); Title VIII (SVB); Title XVI (SSI); Disability; Medicaid**
Link To Reference:	See **References** at the end of this EM

<div style="background:red;color:white">**SENSITIVE - NOT TO BE SHARED WITH THE PUBLIC**</div>

Retention Date: May 20, 2021

Revisions:
Section C: Clarified instructions about accepting paper SSA-632 forms.
Section E: Added a note about accepting paper SSA-632 forms and written reconsideration requests.
Section E: Added a bullet stating that the streamlined waiver process does not apply when the overpayment is the result of appointed representative fees not being paid due to failure to withhold.
Section F: Added information about TOP and BPO resumption.
Section G: Added a note about using the Remarks Tool.
Section G: Added a step for technicians to send the waiver determination for review on the SharePoint site prior to inputting the determination.
Section H: Added a note about using the Remarks Tool.
Section H: Added a note to review the special message field of the MBR for a potential fraud indicator.
Section H: Added a step for technicians to send the waiver determination for review on the SharePoint site prior to inputting the determination.
Section I: Clarified steps for completing an attested SSA-632 electronically.
Section J: Clarified instructions about personal conferences and added a note for technicians to refer to AM for electronic folder sharing.

A. PURPOSE

The purpose of this EM is to provide the following instructions:

   1. Authorization to resume normal workload processing for most workloads

effective August 31, 2020;

2. A process for handling requests for overpayment waivers by phone during the COVID-19 pandemic; and

3. Special handling instructions for waivers of overpayments incurred during the pandemic period (March 2020 through September 2020), because pursuant to EM-20010, we deferred certain actions that could have resulted in a reduction, suspension, or termination of benefits or payments. We implemented a streamlined waiver procedure to specifically address overpayments created or compounded by the deferral of adverse actions between March 2020 and September 2020.

The streamlined waiver process applies to overpayments that we identify by December 31, 2020 and that were a result of actions we had initiated prior to September 1, 2020, and held between March 17, 2020 and August 31, 2020 and resulted in overpayments for the period of March 2020 through September 2020. Since March 17, 2020, these cases have been controlled locally using code 318 in the last three fields of the Unit Code on the development worksheet (DW01) or other workload control listing, or pending in the MHF EMGY location in the PCs.

B. **BACKGROUND**

EM-20010 REV 5 instructs technicians to resume normal workload processing for most workloads effective August 31, 2020, including processing workloads that result in adverse actions and overpayments. Offices can expect to receive a short-term increase in overpayment waiver requests with the resumption of normal workload processing. To simplify the process, we are implementing a number of procedural efficiencies.

C. **Waiver Processing – General**

Effective August 31, 2020, we will accept an oral request for waiver of any overpayment and complete the waiver request in an unscheduled or scheduled telephone interview. We will also apply the attestation process in lieu of obtaining a wet signature on the SSA-632. See sections G and H to determine whether the overpayment falls under the pandemic period and streamlined waiver processing instructions. Offices will continue to accept and process mailed SSA-632s with a wet signature and apply the instructions below.

D. **OVERPAYMENT NOTICES**

Effective August 31, 2020, technicians will resume normal workload processing, including processing those cases that were deferred starting March 17, 2020 through August 31, 2020. All Title II and Title XVI overpayment notices will include the following language:

SPECIAL MESSAGE FOR OVERPAYMENTS BETWEEN MARCH AND

SEPTEMBER 2020. We temporarily suspended processing and collection of some overpayments between March and September 2020. We did this because of the national public health emergency caused by the coronavirus (COVID-19) pandemic. If you were overpaid between March and September 2020, you may request a waiver, and we may find that you do not have to repay some or all of the overpayment. Please contact your local Social Security office by phone to request a waiver. You can find the telephone number for your local office below in this letter.

E. **Streamlined Waiver PROCESS – COVID-19 PERIOD**

We are implementing a streamlined overpayment waiver process for cases where our deferral of certain actions contributed to overpayments between March 2020 and September 2020. The streamlined waiver process applies to qualifying overpayments (defined below) that were incurred by title II beneficiaries, title VIII recipients, or title XVI recipients during the pandemic period (that is, overpayments for any month(s) between March 1, 2020 and September 30, 2020), that we did not timely process. The overpayment must be identified on or before December 31, 2020 for the streamlined waiver process to apply.

As with normal overpayment waiver processing, the overpaid individual, appointed representative, or representative payee must request the waiver. However, technicians should accept oral waiver requests. Technicians should explain to callers that we deferred processing certain workloads in response to the COVID-19 pandemic and the availability of an overpayment waiver.

IMPORTANT: Not all overpayments incurred during the pandemic period will qualify for this streamlined waiver process. Qualifying overpayments will have a special message on the MBR (CV19) and a special code in the CG field of the SSR (CV19). If the CV19 code is not present on the record, review the record to see if the overpayment qualifies for the streamlined waiver process using the requirements listed below.

Overpayments that we assessed timely (i.e. overpayments that were the result of automated data exchanges such as the SSA/VA interface, prisoner suspensions, or monthly telephone or online wage reporting) may still be eligible for a waiver, but are not eligible for the streamlined process. We will follow the waiver development procedures in Section I waiver requests involving overpayments that were timely processed.

Qualifying overpayments are those where the beneficiary requests an overpayment waiver and:

- The overpayment was incurred between March 1, 2020 and September 30, 2020 (the "pandemic period");
- The overpayment resulted from the decision to defer processing adverse actions and the record is annotated with the codes CV19 in the CG field of the SSR or CV19 in the Special Message field of the MBR;
- The overpayment is not caused by fraud or similar fault (e.g., duplicate

check negotiation) or misuse of benefits by a representative payee;
   • The overpayment is not caused because SSA failed to withhold attorney fees from past due benefits and failed to pay the appointed representative; and
   • The overpayment is identified by December 31, 2020.

In these situations, technicians will:

   • Document the oral request for a waiver on a Report of Contact (SSA-5002);
   • Presume that overpaid individuals are without fault in causing the overpayment;
   • Find that recovery of the portion of the overpayment incurred during the pandemic period is against equity and good conscience; and
   • Waive recovery of the portion of a qualifying overpayment incurred between March 2020 and September 2020.

We will not apply this streamlined waiver process to overpayments resulting from fraud or similar fault or involving misuse of benefits by a representative payee. See sections G and H for instructions on processing these waiver requests.

Many overpayments will include both months outside the pandemic period and one or more months between March 2020 and September 2020. These cases will require a split overpayment waiver determination that includes normal waiver development for months before or after the period of March 2020 through September 2020.

Example 1:
A recipient reported a cash gift of $2500 on April 20, 2020 making him ineligible for SSI in April after all exclusions are applied. We held processing the report because it would have resulted in an adverse action (i.e. ineligibility for SSI and a loss of Medicaid). We process the report in September 2020. The recipient receives an overpayment letter and contacts his servicing field office to request a waiver. Because the overpayment is incurred within the pandemic period, resulted from our decision to defer processing adverse actions, and was identified by December 31, 2020, the streamlined waiver applies to the entire overpayment.

Example 2:
BIC C2 reported on an SSA-1372 that student enrollment terminated in January 2020. SSA completed this input in September 2020 and no subsequent enrollment changes occurred. The beneficiary is overpaid from February 2020 to September 2020. Full waiver development is necessary for the overpayment for February 2020, the streamlined waiver process applies for March 2020 – September 2020, and a split determination is required.

NOTE: We will continue to accept SSA-632-BK forms with wet signatures. We will also accept a simultaneous written request for reconsideration as well as a waiver request. The reconsideration determination must be completed prior to the waiver

determination. See GN 02201.025 for reconsideration procedures when a waiver is involved.

F. **Billing AND OVERPAYMENT COLLECTIONS**

The Department of Justice resumed collection and enforcement activities of certain civil debts on August 31, 2020.

The Department of the Treasury resumed Treasury Offset Program (TOP) Benefit Payment Offsets (BPO) on September 21, 2020. A 30 day resumption notice will be sent with each match that occurs. This started with the daily payments and cycle 1 (3rd of the month) was matched during the week of September 28, 2020.

Our agency will continue to suspend referrals of new delinquent debts to TOP collection until further notice.

RECOOP billing is suspended until further notice. See EM-20026 SEN REV for more information.

G. **TITLE XVI WAIVER PROCESSING**

Before assessing whether the streamlined waiver process applies, technicians must confirm whether CV19 is in the CG field on the SSR. If the CV19 code is not present, review the record to see if the overpayment qualifies for the streamlined waiver process using the requirements listed above in section E. If the overpayment does not qualify, follow the procedures in Section I.

When an overpaid person contacts SSA to request a waiver of overpayment or an SSA-632 is received by mail, take the following steps:

    a. **Review the overpayment on the SSR:**
        i. Does the overpayment fall within the $1,000 administrative tolerance criteria to be waived?
            1) If yes, follow SI 02260.030, and complete the waiver determination based on administrative tolerance.
            2) If no, proceed to Step ii.
        ii. Verify the period of overpayment. Many overpayments will include both months outside the pandemic period and one or more months may overlap with the COVID-19 pandemic period, between March 2020 and September 2020. Only the portion of the overpayment incurred during March 2020 through September 2020 qualifies for the streamlined waiver.

            If the overpayment precedes the pandemic period or extends beyond this period, proceed with completing an attested SSA-632 and full waiver development for the portion of the overpayment incurred for months outside of the pandemic period of March 2020 through September 2020.

iii. Determine if the case involves potential fraud, similar fault (e.g., double check negotiation or DCN), or representative payee misuse.

    a) Review the following fields on the SSR:

(b) (7)(E)

█████████

    b) If yes, STOP, the case does not meet the criteria for using the streamlined process to waive the overpayment. Proceed with completing an attested SSA-632 and full waiver development. See Section I below.

    c) If no, go to Step iv.

iv. Determine if the overpayment was incurred because SSA paid retroactive benefits to a beneficiary and failed to pay the appointed representative.

    a) If the overpayment is a result of failure to pay the appointed representative, STOP, this case does not meet the criteria for the streamlined waiver process. Proceed with completing an attested SSA-632 and full waiver development. See Section I below.

    b) If no, go to step v.

v. Determine the date the overpayment was posted to the record. Only overpayments incurred within any month(s) between March 1, 2020 and September 30, 2020 and identified by December 31, 2020 qualify for the streamlined process. Any overpayment incurred for months within the pandemic period but identified after December 31, 2020, will follow normal waiver processing.

    a) If yes, proceed to step b.

    b) If no, proceed with completing an attested SSA-632 and full waiver development. See Section I below.

b. **Input the request for waiver:**

    i. If all criteria for the streamlined process above are met, input the request for waiver, then go to step c.

    ii. If all criteria are not met, proceed with completing an attested SSA-632 for full waiver development. See Section I below.

c. **Complete a DROC for MSSICS cases or a SSA-5002 for non-MSSICS**

cases which includes:

        i. The reason for overpayment,

        ii. The overpayment amount, sequence number and period, and

        iii. The following statement: ***This overpayment is being waived under COVID-19 procedures per EM-20037 SEN. A request for waiver was received from the overpaid person and it is presumed the overpaid person is not at fault in causing the overpayment due to the pandemic. The waiver is approved based on against equity and good conscience provision.*** Lock the DROC. Go to Step d.

NOTE: Use the Remarks Tool in the OQA Toolbar to load this statement. For MSSICS cases, once on DROC (page 3), access the Remarks Tool (RMKS) from the OQA Toolbar in PCOM. Select the POMS Remarks category and select the remark titled COVID-19 SSI DROC and select Send to PCOM. Complete the open fields and lock the DROC prior to proceeding. For Non MSSICS cases, document the statement on an SSA-5002. Select the POMS Remarks category and select the remark titled COVID-19 SSI DROC. Copy the information from the Remarks Tool and paste into the SSA-5002.

        iv. If the determination was split due to this process, include in the DROC: ***Overpayment sequence (#) was split in order to apply the streamlined waiver provision per EM-20037 SEN.***

NOTE: Use the Remarks Tool in the OQA Toolbar to load this statement. From the Remarks Tool, select the remark titled COVID-19 SSI DROC Split Decision and select Send to PCOM. Complete the open fields and lock the DROC prior to proceeding. For Non MSSICS cases, document the statement on an SSA-5002. Select the POMS Remarks category and select the remark titled COVID-19 SSI DROC. Copy the information from the Remarks Tool and paste into the SSA-5002.

    d. **Have reviewer complete review of determination.**

        i. Notify reviewer that a waiver determination is ready for review.

        ii. Reviewer will complete review on the [In-Line Streamlined Waiver Review SharePoint.](#)

        iii. Correct any errors found by reviewer. Go to Step e.

    e. **Input the waiver determination using UOWV screen.**

        i. If any portion of the overpayment period is outside of the period of March 2020 through September 2020, in MSSICS input a split waiver determination per [MS 00304.009](#);

        ii. If the overpayment period contains months both inside and outside of the pandemic period, make a separate determination for months outside of the pandemic period at the same time, as a partial approval (if only the pandemic period can be waived) or approval (if the entire overpayment period can be waived).

    f. **Input a remark on the SSR using the CRMK screen:**

        Waiver for sequence XX input in the amount of $XXX for MM/2020 to MM/2020 due to pandemic procedures. See EM-20037 SEN.

See MS 04423.003.

i. If the waiver determination is a split determination, include in the note that it was a split determination and note the sequence number.

NOTE: Use the Remarks Tool in the OQA Toolbar to load this statement. Once on CRMK screen, access the Remarks Tool (RMKS) from the OQA Toolbar in PCOM. Select the POMS Remarks category and select the remark titled COVID-19 SSR Remark and select Send to PCOM. Complete the open fields prior to proceeding.

g. **Follow non-collect decision guidelines for 2nd PIN review for overpayments over $2,000.00.**

h. **Complete and mail the waiver approval notice.**

Example 3:
An SSI RZ is completed for the period May 15, 2018 through May 15, 2020. All evidence is in file and ready to be adjudicated in June 2020; however, adjudicating the case will result in a large overpayment spanning the months of September 2019 through June 2020, and continuing. The case is held because it would result in an adverse action (i.e. reduced SSI through the pandemic). It is adjudicated on September 2, 2020, and an overpayment letter sent. The recipient contacts the field office to request an overpayment waiver. The total overpayment period is September 2019 through September 2020, and the qualifying overpayment that may be waived under the streamlined waiver policy includes the months of March 2020 through September 2020. Normal waiver development is required for September 2019 through February 2020, and a split determination is required. See MS 00304.009.

H. **TITLE II WAIVER PROCESSING**

Before assessing whether the streamlined waiver process applies, technicians must confirm whether CV19 is present in the SP MSG field of the MBR. If the CV19 code is not present, review the record to see if the overpayment qualifies for the streamlined waiver process using the requirements listed above in section E. If the overpayment does not qualify, follow the processing procedures in Section I.

When an overpaid person contacts SSA to request a waiver of overpayment or an SSA-632 is received in the mail, take the following steps:

1. **Review the overpayment on the MBR/ROAR:**
   a. Does the overpayment fall within the $1,000 administrative tolerance criteria to be waived?
        i. If yes, follow GN 02250.350 and complete the waiver determination based on administrative tolerance.
        ii. If no, proceed to Step 1b.
   b. **Determine the time period of the overpayment; and**
        Only an overpayment, or the portion of an overpayment, incurred between March 2020 and September 2020 qualify

for the streamlined waiver process. If any portion of the overpayment period is outside of the period March 2020 through September 2020, a split determination will be necessary in DMS, proceed to Step 1c.
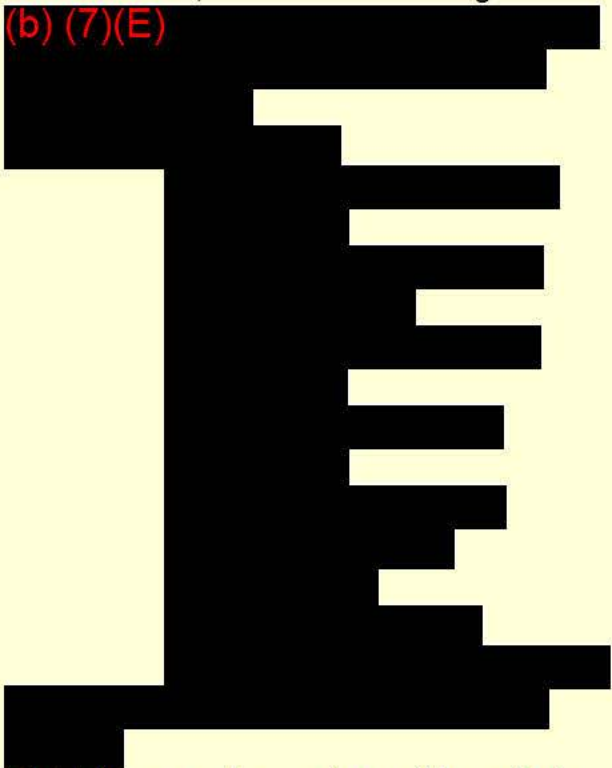
Example: The overpayment period is January 2020 through April 2020. Only the months of March 2020 and April 2020 are eligible for the streamlined waiver process. Full waiver development is needed for January 2020 and February 2020.

> i. If the entire overpayment period is before March 2020 or after September 2020, STOP. Proceed with completing an attested SSA-632 for full waiver development. See Section I below.
>
> ii. If the entire overpayment period is between March and September 2020, proceed to Step 1c.

c. **Determine if DCN, representative payee misuse or potential fraud or similar fault is involved.**

> i. To find this information, review the following fields:

(b) (7)(E)

> ii. If yes, STOP. The case does not meet the criteria for this streamlined process. Proceed with completing an attested SSA-632 for full waiver development. See Section I.
>
> iii. If no, go to Step 1d, we can presume they are without fault.

d. **Determine if the overpayment was caused by failure to withhold for appointed representative fees.**

> i. To find this information, review the ROAR for an

(b) (2)

11/25/2020 9:04:47 AM]

event with a TOE code 27 and look for the special message: *Failure to Withhold involved and wage earner failed to pay the attorney fee*. If this code is present, STOP. The case does not meet the criteria for this streamlined process. Proceed with completing an attested SSA-632 for full waiver development. See Section I.

ii. If there is no special message or ROAR event with a TOE of 27, proceed to step e.

e. **Determine when the overpayment was identified.**

i. Review the HISTORY field of the ROAR. If the overpayment was posted to the record on or before December 31, 2020, proceed to step 2.

ii. If the overpayment was identified after December 31, 2020, the streamlined waiver process does not apply. Proceed with completing an attested SSA-632 and full waiver development. See in Section I.

2. **Input remarks in DMS**.

a. Input the following DMS remarks: ***This overpayment is being waived under COVID-19 procedures per EM-20037 SEN. A request for waiver was received from the overpaid person and it is presumed the overpaid person is not at fault in causing the overpayment due to the pandemic. The waiver is approved based on against equity and good conscience provision.***

i. Also include in the remarks:

1. The overpayment reason;
2. The overpayment period; and
3. The total amount of the overpayment.
4. For split decisions, include the amount waived under this streamlined process.

NOTE: Use the Remarks Tool in the OQA Toolbar to load this statement. Once on RMKS screen, access the Remarks Tool (RMKS) from the OQA Toolbar in PCOM. Select the POMS Remarks category, select the remark titled COVID-19 DMS Remarks and select Send to PCOM. Complete the open fields prior to proceeding.

3. **Have in-office reviewer complete review of determination.**

a. Notify reviewer that a waiver determination is ready for review.
b. Reviewer should complete review on the In-Line Streamlined Waiver Review SharePoint.
c. Correct any errors found by reviewer. Go to Step 4.

4. **Complete determination in DMS**.

a. Follow instructions in MS 01106 to input the waiver approval.

i. Calculate the amount of the overpayment that falls within the pandemic period, March 2020 through September 2020, to determine the approval amount on the DRWD screen.

ii. If the overpayment period contains months both inside and outside of the pandemic period, make a separate determination for months outside of the pandemic period at the same time, as a partial approval (if only the pandemic period can be waived) or approval (if the entire overpayment period can be waived).

b. Follow the guidelines for waiver approval 2-PIN review for overpayments over $2,000. See GN 02250.301.

c. Complete an SSA-635 *Waiver Determination* form only for months of the overpayment which fall outside of the pandemic period. See GN 02250.410.

d. Complete and mail a waiver approval notice.

Example 4:
BIC B2 reported in April 2020 that she was divorced from BIC A in December 2019. SSA completed the input to terminate benefit entitlement for B2 on 09/03/2020. BIC B2 is overpaid from January 2020 through September 2020. Full waiver development is necessary for the months of January 2020 through February 2020 and the streamlined waiver process applies for March 2020 through September 2020, and a split determination is required.

I. WAIVER PROCESS FOR Overpayments THAT DO NOT QUALIFY FOR THE STREAMLINED WAIVER PROCESS

Technicians will continue to gather evidence to adjudicate waiver requests and access financial account information using AFI when applicable, which will assist us in determining whether the individual has the ability to repay when adjudicating a waiver request for overpayments that do not qualify for the streamlined waiver process.

If an individual requests a waiver and you are unable to approve the waiver under the administrative tolerance provision or the streamlined waiver process, follow these steps to complete an SSA-632-BK over the phone:

1. Open Inform and select the SSA-632-BK form;

2. Complete the attestation script before and after the interview as shown in GN 02201.015 F3.

3. Go over the questions with the waiver requestor and input his or her responses into the fillable form;

4. On page 11 in the Remarks field, input the following language after reading the Penalty Clause to the individual (located on page 13): *Signature attested after reading the Penalty Clause per process*

outlined in *EM-20037 SEN*.

NOTE: Use the Remarks Tool in the OQA Toolbar to copy the statement in subsection c. Access the Remarks Tool (RMKS) from the OQA Toolbar in PCOM. Select the POMS Remarks category and select the remark titled COVID-19 SSA-632-BK. Copy the language and paste into the Remarks section of the SSA-632-BK.

5. On page 12, check the appropriate box for the authorization to obtain financial account information and follow instructions in EM-16011 SEN;

6. Save the completed form as a pdf file to FO Shared drive. Delete the file from the Shared drive as soon as business has been completed.

7. Upload the completed form into WorkTrack 2.0 using the "Upload a Batch" process. See the WorkTrack 2.0 User Guide for more information.

8. Mail a printed copy of the completed SSA-632 to the waiver requestor.

9. Suspend overpayment recovery if a waiver determination cannot be made. Refund any amount already recovered if payments were withheld after the waiver request was received.

10. Follow normal business processes to profile and assign the waiver to a technician for completion.

For full waiver development, follow current policies and procedures in GN 02250.000 for Title II and SI 02260.000 for Title XVI.

J. Propose to deny waiver determinations

Due to limited in-office appointments, only complete telephone personal conferences when possible per GN 02270.009. See below for instructions when the initial waiver determination is propose to deny:
- After the initial proposal to deny waiver determination, process waivers according to GN 02270.005C. The independent decision-maker can approve the waiver without a folder review or personal conference if he or she can make a completely favorable determination after reviewing the waiver request and the initial determination.
  (b) (5) ██████████████████████.
- Follow the steps for folder reviews and personal conferences as outlined in GN 02270.009 and GN 02270.013 or SI 02260.006.
  NOTE: Technicians can follow the process in AM-20027 SEN to use the Claims File User Interface (CFUI) to send folder documents to the waiver requestor via encrypted email.

- Complete the personal conference **only after** documentation from the waiver requestor is available.
- If you are unable to complete the personal conference process due to the field office closures, hold the waiver determination until after COVID-19 procedures have ended and an in-person folder review and personal conference can be held.

Direct all program-related and technical questions to your Regional Office (RO) support staff or Program Service Center (PSC) Operations Analysis (OA) staff. RO support staff or PSC OA staff may refer questions, concerns or problems to their Central Office contacts.

For questions related to the Remarks Toolbar contact (b) (2) ███████████

References:

MS 01108.003 Billing Data (IBIL)
MS 01109.003 Remarks (RMRKS)
MS 01114.003 Stop Collection Action (TRSC)
MS 00302.019 Update Diaries (UDIA)
MS 01114.004 Resume Collection Action (TRRC)
MS 00304.009 Waiver (UOWV)
MS 00304.008 Overpayment Decisions (UOPD)
MS 04423.003 SSR Remarks (CRMK)
GN 02270.005 FO Action on Receiving Folder- Personal Conference
GN 02270.009 Folder Review by the Person for Personal Conference
GN 02270.013 Conducting the Conference
SI 02260.006 Personal Conferences
GN 02201.025 Title II Overpayment Reconsideration Request
GN 02410.300 Benefit Payment Offset

EM-20037 SEN REV - Special Overpayment and Waiver Processing - 11/19/2020

Link to this document:
(b) (2) ███████████████████

(b) (2) ████████████████   11/25/2020 9:04:47 AM]