Recovery of Undue Payments

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I. PURPOSE AND SCOPE

1. The purpose of this implementing directive is to describe the detailed provisions for implementation of the CERN Health Insurance Scheme (CHIS) Rules governing the recovery of undue payments.

2. This implementing directive details how amounts to be recovered are determined, as well as the related procedures.

II. DETERMINATION OF THE RECOVERY PERIOD

3. In accordance with Article V 4.01 of the CHIS Rules, the Scheme is entitled to claim the repayment of sums unduly received by a Member up to five years after the payment is made, unless the payment resulted from a fraudulent declaration, in which case no deadline applies.

The “recovery period” refers to the period, in the past, in respect of which the Third-Party Administrator (hereafter the “TPA”) can claim repayment, and is counted backwards from the date on which the undue payment is discovered.

4. Except in the case of fraudulent declarations, the following recovery periods shall apply:

   a. Where the undue payment results solely from an error by the Scheme or its TPA, there shall be a recovery period of two years counted backwards from the date on which the undue payment is discovered.

   b. Where the undue payment results in whole or in part from an error by the Member, there shall be a recovery period of between two and five years counted backwards from the date on which the undue payment is discovered, depending on the nature of the error and the good faith of the Member. The recovery period will be decided by the CHIS Manager, based on a proposal by the TPA and taking into account the opinion of the Strategic Advisor.

   c. In exceptional circumstances, based on a proposal by the TPA and taking into account the opinion of the Strategic Advisor, the CHIS Manager can authorise a recovery period of less than two years counted backwards from the date on which the undue payment is discovered.

5. No maximum recovery period shall apply to payments resulting from a fraudulent declaration.

6. The TPA will calculate the amount to be recovered, based on the recovery periods indicated above, and will notify the Member concerned accordingly.

III. DETERMINATION OF THE REPAYMENT ARRANGEMENTS

7. After consultation with the Member, the arrangements for the repayment are decided by the TPA, taking into consideration such parameters as the amount of the payment involved, the Member’s financial situation and the importance of the errors committed by the Member, if any.

8. The TPA may recover the determined amounts via:
a. direct invoicing;

b. deduction from sums to be reimbursed; or

c. deduction from sums to be paid (e.g. allowances).

The Member is notified by the TPA of the repayment arrangements decided as indicated above at the same time as being informed of the amount to be recovered (see paragraph 6).

9. Where the TPA is unable to recover the determined amounts, and after giving the Member formal notice, the TPA may refer the case to the CHIS Manager, who, in accordance with Article V 4.02 of the CHIS Rules, will contact the relevant services of the Organization to instruct them to withhold the determined amounts from the salary, pension or any indemnities or allowances paid to the Member. The Organization may also decide to have recourse to the competent national jurisdiction.

10. In cases involving a Voluntary Member, where it has not been possible to recover the amount either directly by the TPA or by withholding the corresponding amount in accordance with paragraph 9 above, the case will be reported to the Voluntary Member’s home institute, which will be responsible for paying the amount due.

IV. RECORD-KEEPING BY THE TPA ON BEHALF OF THE CHIS

11. To facilitate the necessary analysis of cases, the TPA will maintain and make available to the CHIS Manager a detailed record of decisions taken under 4b and 4c, as well as of the elements used to determine the appropriate recovery period and payment arrangements.