



Medicare Secondary Payer – A Review of the Disabled with a LGHP Provision 2021



Today's Presenters

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Objective

- Review Disabled MSP provision so providers are familiar with it
 - Many benefits of being familiar with MSP provisions
 - Compliant with MSP-related provider responsibilities
 - Improve cash flow/decrease staff time
 - Facilitate your screening process
 - » More easily conclude which plan is primary
 - » Resolve conflicts that may arise
 - Facilitate your billing process
 - » Submit claims to appropriate primary payer first time
 - » Prevent claim rejections and submit fewer adjustments

Agenda

- MSP Overview
- Disabled MSP Provision
- Submitting Claims
- Scenarios and Polling Questions
- MSP Resources (Also refer to additional MSP Resources handout)
- Questions and Answers

MSP Overview

What is MSP?

- Beneficiary has coverage primary to Medicare
 - Based on federal laws known as **MSP provisions**
 - Help determine proper order of payers
 - Make certain payers primary to Medicare
 - Each has criteria/conditions that must be met
 - If all are met, services are subject to that provision making that other insurer primary and Medicare secondary
 - If one or more are not met, services are not subject to that provision; Medicare is primary unless criteria/conditions of another are met

MSP Provisions

- GHP MSP provisions
 - Working Aged with EGHP
 - **Disabled with LGHP**
 - ESRD with EGHP
- Non-GHP MSP provisions
 - Federal Black Lung Program
 - PHS including research grants
 - Workers' Compensation
 - Automobile no-fault (medical-payment coverage or PIP)
 - Other types of no-fault coverage (premises med-pay)
 - Liability

Your MSP Responsibilities

- Determine proper order of payers for beneficiary
 - Identify payers by conducting MSP screening process
 - Must check for MSP information in Medicare's records (CWF) and
 - May have to collect MSP information from beneficiary or representative by asking questions about other insurance
 - For every IP admission or OP encounter with **some exceptions**
 - » Refer to [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 3](#), Section 20.1 (Updated by MLN Matters® MM10863)
- Submit claims to primary payer(s) before Medicare
- Submit MSP claims when required or conditional claims when appropriate

Check for MSP Information in Medicare's Records

- Part of Medicare eligibility verification process
 - Various options to check if MSP record(s) in CWF
 - CMS' HETS (X12 270 transmission and 271 response)
 - NGSConnex and IVR system
 - Available information
 - **MSP VC** or **Primary Payer Code** that represents MSP provision
 - MSP effective and termination dates
 - Subscriber's name, policy number, patient relationship, insurer's information and more

MSP VCs and Primary Payer Codes for MSP Provisions

MSP VC	MSP Provision	Primary Payer Code
12	Working aged, age 65 and over, EGHP, 20 or more employees	A
13	ESRD with EGHP in coordination period	B
14	No-Fault (automobile and other types)	D
15	Workers' Compensation or Set-Aside	E or W
16	Public Health Services; research grants	F
41	Federal Black Lung Program	H
43	Disabled, under age 65, LGHP, 100 or more employees	G
47	Liability Insurance	L

Determine if Provider Must Collect MSP Information From Beneficiary or Representative

- Per MLN Matters® MM10863
 - Is there an MSP record(s) in CWF or HETS 271 response(s)?
 - **NO** = Ask questions about other insurance unless service is an exception
 - **YES** = Ask if there are changes/updates to MSP record(s)
 - If **no**, you are not required to ask questions about other insurance but notate why you did not since a Reviewer may ask
 - » You may ask such questions if you feel uncertain about response
 - If **yes**, ask questions about other insurance unless service is an exception

Collect MSP Information From Beneficiary or Representative

- Conduct MSP screening process
 - Ask beneficiaries, regardless of age, questions concerning their most recent MSP status
 - May use CMS' model MSP questionnaire or provider's own compliant form
 - CMS' model MSP questionnaire
 - Refer to [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 3](#), Section 20.2.1 and MLN Matters® MM10945
 - Has three parts with questions to be asked in sequence
 - May need to collect additional information for billing purposes
 - Questionnaire/form can be in electronic and/or hardcopy format

CMS' Model MSP Questionnaire – Part II

■ Part II. Information About Medicare Entitlement and GHPs

1. Are you entitled to Medicare based on Age, Disability or ESRD?

- Note: If entitlement is based solely on ESRD, skip Part II and complete Part III.
- Stop after completing Part II if you are entitled to Medicare based on Age or Disability.

CMS' Model MSP Questionnaire – Part II

■ Part II. Information About Medicare Entitlement and GHPs – Continued

2. Do you have GHP coverage based on your own current employment, or the current employment of either your spouse or another family member?

- If yes, the employer GHP may be primary to Medicare. Continue below.
- If no, stop here as Medicare is primary.

CMS' Model MSP Questionnaire – Part II

■ Part II. Information About Medicare Entitlement and GHPs – Continued

3. How many employees, including yourself or spouse, work for the employer from whom you have GHP coverage? 1–19, 20–99, 100 or more

- Note:
 - If you are aged and there are 20 or more employees, your GHP is primary.
 - If you are disabled and your employer, spouse, or family member employer, has 100 or more employees, your GHP is primary.

CMS' Model MSP Questionnaire – Part II

■ Part II. Information About Medicare Entitlement and GHPs – Continued

4. The following employer GHP information is required to submit claims appropriately:

- Name and address of the employer (your own or your spouse's/family member's) through which you receive GHP coverage
- Name and address of GHP

CMS' Model MSP Questionnaire – Part II

- Policy number (sometimes referred to as the health insurance benefit package number)
- Group number
- Date the GHP coverage began
- Name of policyholder (if coverage is through your spouse/other family member)
- Relationship to patient (if other than self)

Determine Proper Order of Payers

- Providers must determine which plan is primary, secondary, tertiary, etc., payer
 - Compare any MSP information in CWF to collected MSP information and use your knowledge of MSP provisions
 - In general, Medicare is primary when
 - Beneficiary has no other coverage
 - Beneficiary has other coverage but it doesn't meet MSP provision criteria
 - Beneficiary has other coverage, it meets MSP provision criteria but it is no longer available
 - In general, other payer(s) is primary when
 - Beneficiary has other coverage that meets MSP provision criteria and it is available

Submit Claims According to Determination You Make and Code Claims Accurately

- Submit claims to Medicare accordingly
 - If you determined Medicare is primary
 - Submit Medicare primary claim with explanatory billing codes
 - If you determined another payer is primary
 - Submit claim to that payer first; follow up as timely filing applies
 - Submit claim to Medicare second with correct billing codes
 - If you determined more than one payer is primary
 - Submit claims to those payers first, in proper order and Medicare third, etc. with correct billing codes

Did You Know

- During your MSP screening process with the beneficiary, you may learn of information that could change a beneficiary's existing MSP record(s) or that would require the set up of a new MSP record for the beneficiary. Contact the BCRC in most of these situations.

MSP Provision Review – Disabled

Disabled MSP Provision

- Medicare is secondary for disabled Medicare beneficiaries under age 65 who are covered under a GHP by virtue of their own (or family member's) current employment status with an employer
- This provision applies to LGHPs of employers and employee organizations, including multi and multiple employer plans which have at least one participating employer that employs 100 or more employees
 - Refer to [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 1](#), Section 10.3 and [Chapter 2](#), Section 30

Disabled – Criteria

- LGHP is primary to Medicare if all five criteria are met
 - Beneficiary is under age 65
 - Beneficiary is enrolled in Medicare Part A
 - Beneficiary or family member (of any age) is currently employed
 - Beneficiary is enrolled in LGHP through employer
 - Employer employs 100 or more employees

Criteria 1: Beneficiary is Under Age 65

- Beneficiary must be under age 65
 - Entitled to Medicare based on disability other than ESRD
 - Verify DOB; verify age using applicable eligibility tools
- Beneficiary is not subject to this MSP provision
 - If he/she is age 65 or older

Criteria 2: Beneficiary is Enrolled in Medicare Part A

- Beneficiary must be enrolled in Medicare Part A
 - Conduct Medicare Part A eligibility verification whether you are rendering services payable under Part A or Part B
 - Use appropriate tools
 - Medicare card shows Part A effective date
 - Medicare's records show Part A effective date
- Beneficiary is not subject to this MSP provision
 - If he/she is not enrolled in Medicare Part A

Beneficiary is Not Enrolled in Medicare Part A But is Enrolled in Medicare Part B

- If beneficiary is not entitled to/enrolled in Part A
 - Medicare is primary to any EGHP for all services
 - We reject IP claims for no entitlement to Part A
 - Submit IP claims to EGHP; submission to Medicare is not required
- If beneficiary is entitled to/enrolled in Part B
 - Medicare is primary to any EGHP for all services
 - We process OP claims as Medicare primary
 - Submit OP claims to EGHP as secondary

Criteria 3: Beneficiary or Family Member is Currently Employed

- Beneficiary or family member (of any age) must be currently employed (have current employment status)
 - Conduct screening process/administer MSP questionnaire
 - Ask if beneficiary and family member (if applicable) is currently employed
 - Family member = person enrolled in LGHP based on another person's enrollment
 - If YES, ask if employer provides LGHP and about employer size
- Beneficiary is not subject to this MSP provision
 - If beneficiary and/or family member is not currently employed or does not have current employment status

MSP Fact

- If an individual is retired, then he/she does not have current employment status for the purposes of the Disabled MSP provision. Medicare would be primary to any GHP coverage he/she may have through his/her former employer.

Current Employment Status – Defined

- Rules Defining Employees Covered by GHPs
 - Refer to [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 1](#), Section 50
- Individual has current employment status if he/she
 - **Is actively working** as an employee, is the employer (including a self-employed person), or is associated with an employer in a business relationship; **or**
 - **Is not actively working** and is receiving disability benefits from an employer for up to six months (subject to FICA taxes); **or**

Current Employment Status – Defined

- **Is not actively working** and meets all conditions:
 - Retains employment rights in the industry;
 - Has not had employment terminated by employer (if it provides coverage) or has not had membership in employee organization terminated (if it provides coverage);
 - Is not receiving disability benefits from employer for more than six months;
 - Is not receiving Social Security disability benefits; and
 - Has employment-based GHP coverage that is not COBRA continuation coverage

Current Employment Status – Specific Groups

- CMS provides information on specific groups
 - Refer to [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 1](#), Section 50.1
 - Members of religious orders
 - Insurance agents
 - Senior Federal judges
 - Volunteers
 - Directors of corporations
 - Individuals receiving delayed compensation payments
 - Leased employees
 - Re-employed retirees and annuitants
 - Coverage for self-employed individuals

Criteria 4: Beneficiary Has LGHP Through Employer

- Beneficiary must have LGHP through employer (beneficiary's or family member's employer)
 - Conduct screening process/administer MSP questionnaire
 - Ask if beneficiary or family member is currently employed
 - If YES, ask if employer provides GHP and about employer size
 - LGHP - Health plan for or contributed to by employer of 100 or more employees
- Beneficiary is not subject to this MSP provision
 - If beneficiary's health plan is not through employer or does not meet definition of GHP

GHP – Defined

- Definitions (of various terms)
 - Refer to [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 1](#), Section 20
- GHP
 - Any arrangement of, or contributed to by, one or more employers or employee organizations to provide health benefits or medical care directly or indirectly to current or former employees, the employer, others associated or formerly associated with the employer in a business relationship or their families

GHP – Defined

- Term includes:
 - Self-insured plans
 - Plans of governmental entities
 - Employee organization plans such as union plans and employee health and welfare funds
 - Employee pay-all plans
 - Individual policies purchased by or through an employee organization, employer or former employer of individual or family member of individual

GHP – Defined

- Term does not include:
 - Individual policies not purchased by or through an employee organization, employer or former employer of the individual or family member of the individual, such as a direct-pay plan
 - COBRA continuation coverage (for purpose of Disabled provision)
 - Coverage under TRICARE
 - A plan that does not have any employees or former employees as enrollees (e.g., a plan for self-employed person only)

GHP – Defined

- Multi- or multiple-employer GHP
 - Multi-employer GHP – jointly sponsored by employers and unions
 - Multiple-employer GHP – sponsored by more than one employer

Criteria 5: Employer Employs 100 or More Employees

- Employer through whom beneficiary has a LGHP employs 100 or more employees
 - Conduct screening process/administer MSP questionnaire
 - Ask if beneficiary or family member, if applicable, is currently employed
 - Ask if beneficiary has GHP through employer
 - Ask about employer size
- Beneficiary is not subject to this MSP provision
 - If employer size requirement is not met

Did You Know

- The employer size requirement is determined by the number of employees employed by the employer; not by the number of employees in the GHP.

100 or More Employee Threshold

- Employer determines size
 - 100 or more employee count is met if employer employs 100 or more full-time and/or part-time employees on 50% or more of its business days during previous calendar year
 - If employer meets employee count any time in current year
 - It must provide coverage primary to Medicare during following year
 - If employer does not meet employee count in a particular year
 - It may offer coverage secondary to Medicare during following year

Single Employer – 100 or More Employee Threshold

- If single employer meets 100 or more employee threshold
 - LGHP is primary to Medicare for under age 65 disabled beneficiaries in LGHP
- If single employer does not meet 100 or more employee threshold
 - Medicare is primary to GHP for under age 65 disabled beneficiaries in GHP

Multi-Employer or Multiple-Employer – 100 or More Employee Threshold

- In a multi- or a multiple-employer LGHP situation
 - 100 or more employee count is met if
 - At least one employer employs 100 or more full-time and/or part-time employees on 50% or more of its business days during previous calendar year
 - LGHP is primary for under age 65 disabled beneficiaries in LGHP
 - » No exceptions for any smaller employers who are part of LGHP
 - 100 or more employee count is not met if
 - None of the employers employ 100 or more full-time and/or part-time employees on 50% or more of its business days during previous calendar year
 - Medicare is primary for under age 65 disabled beneficiaries in GHP

Disabled – Submitting Claims

Submitting Claims For Under Age 65 Disabled Beneficiaries – LGHP is Primary

- If all criteria of Disabled MSP provision are met
 - Submit claim to LGHP as primary and Medicare as secondary
 - MSP VC 43
 - Refer to [our website](#) > Claims & Appeals > Medicare Secondary Payer
 - [Prepare and Submit an MSP Claim](#)
 - [Prepare and Submit an MSP Conditional Claim](#)

Contact BCRC to Set Up New MSP Record

- For MSP claim to process, a **matching** MSP record must be in CWF
 - Matching = MSP record has same information as is on claim
 - If no matching MSP record in CWF, contact BCRC
 - If you submit claim before such record is in CWF, it suspends for up to 100 days while we contact BCRC
- Refer to [our website](#) > Claims & Appeals > Medicare Secondary Payer
 - [Set Up a Beneficiary's MSP Record](#)
 - [Correct a Beneficiary's MSP Record](#)

Submitting Claims For Under Age 65 Disabled Beneficiaries – Medicare is Primary

- If one or more criteria of Disabled MSP provision are not met
 - Submit claims to Medicare as primary and LGHP as secondary
 - Report explanatory coding on claims indicating reason(s) Medicare is primary (various condition and occurrence codes)
 - OC 18 with beneficiary's retirement date
 - OC 19 with spouse's retirement date
 - Refer to [our website](#) > Claims & Appeals > Medicare Secondary Payer
 - [Prevent an MSP Rejection on a Medicare Primary Claim](#)
 - [Collect and Report Retirement Dates on Medicare Claims](#)

Contact BCRC to Change MSP Record to Medicare Primary

- If there is an MSP record in CWF that would cause a primary claim to reject
 - Contact BCRC to change MSP record
 - Explanatory coding on claim will not prevent claim rejection for MSP unless such coding is for retirement date(s)
 - Refer to [our website](#) > Claims & Appeals > Medicare Secondary Payer information
 - [Correct a Beneficiary's MSP Record](#)

Medicare is Primary for Under Age 65 Disabled Beneficiary When

- Beneficiary is not enrolled in Medicare Part A
- Beneficiary or family member is not currently employed
 - Does not have an LGHP, has a retirement plan or has COBRA
- Beneficiary or family member is currently employed but
 - Does not have an LGHP, or
 - Purchased direct-pay plan (outside of employment relationship)
 - Employed by single employer with less than 100 employees
 - Has multi- or multiple-employer LGHP but all employers employ less than 100 employees

Examples of GHP Records That Need to be Changed Via BCRC

- Examples include but are not limited to
 - LGHP terminated for reason other than retirement
 - Beneficiary is not enrolled in an employer GHP
 - Beneficiary, spouse or family member is not currently employed
 - Employer size change; LGHP remains primary until a certain amount of time has passed after size change

Scenarios and Polling Questions

Scenario and Polling Question #1

- Scenario
 - Age 60
 - Has Medicare Part A but not Part B
 - Currently employed and has LGHP through employer
 - Single employer employs 129 employees
- Which plan is primary for the beneficiary?
 - Medicare
 - LGHP

Scenario and Polling Question #2

- Scenario
 - Age 51
 - Has Medicare Parts A and B based on disability other than ESRD
 - Not currently employed but has LGHP through daughter who is currently employed
 - Single employer employs 43 employees
- Which plan is primary for the beneficiary?
 - Medicare
 - LGHP

Scenario and Polling Question #3

- Scenario
 - Age 63
 - Has Medicare Parts A and B based on disability other than ESRD
 - Currently employed and has LGHP through employer
 - Single employer employs 75 employees
- Which plan is primary for the beneficiary?
 - Medicare
 - LGHP

Scenario and Polling Question #4

- Scenario
 - Age 56
 - Has Medicare Parts A and B based on disability other than ESRD
 - Not currently employed but has LGHP through brother who is currently employed
 - Single employer employs 137 employees
- Which plan is primary for the beneficiary?
 - Medicare
 - LGHP

Scenario and Polling Question #5

- Scenario
 - Age 32
 - Has Medicare Parts A and B based on disability other than ESRD
 - Not currently employed but has LGHP through spouse who is currently employed
 - Employer employs 78 employees but is part of a multiple GHP and at least one employer employs 100 or more employees
- Which plan is primary for the beneficiary?
 - Medicare
 - LGHP

What You Should Do Now

- Review MSP Resources slides and handout
- Share information with staff
- Continue to learn more about MSP
- Develop and implement policies that ensure your provider's MSP responsibilities are met
- Be familiar with MSP resources
- Continue to attend educational sessions

MSP Resources



Education Tab on our Website

- For a complete listing of our educational activities, visit the Education mega tab on [our website](#)
- Our Education includes links to
 - Webinars, Teleconferences & Events Calendar
 - Medicare University
 - New Provider Center
 - POE Advisory Group
 - And much more
- Easiest, fastest way to be aware of all POE information

CMS' MSP Resources

- Internet-Only Manuals (IOMs)
 - 100-05, *Medicare Secondary Payer Manual*
 - Chapter 1, Sections
 - 10.3, Disabled Beneficiaries Covered Under a Large Group Health Plan (LGHP)
 - 20, Definitions
 - 50, Rules Defining Employees Covered by GHPs and LGHPs
 - 50.1, Clarification of Current Employment Status for Specific Groups
 - Chapter 2, Section
 - 30, Medicare Secondary Payer Provision for Disabled Beneficiaries
 - Chapter 3 Sections
 - 20, Obtain Information From Patient or Representative at Admission or Start of Care
 - 20.1, General Policy

Employee – Defined

- Definitions (of various terms)
 - Refer to [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 1](#), Section 20
- Employee:
 - An individual who is working for an employer or who, although not actually working for an employer, is receiving from an employer payments subject to Federal Insurance Contributions Act (FICA) taxes or would be subject to FICA taxes except that employer is exempt from those taxes under Internal Revenue Code (IRC)

Employer – Defined

- Employer

- Employer means, in addition to individuals (including self-employed persons) and organizations engaged in a trade or business, other entities exempt from income tax such as religious, charitable, and educational institutions
 - Included are governments of United States, individual States, Puerto Rico, Virgin Islands, Guam, American Samoa, Northern Mariana Islands, District of Columbia, and foreign governments

Deficit Care Programs

Diabetes Awareness

- Let's Raise Awareness
- Three types of Diabetes Medicare benefits for your Medicare beneficiaries
 - Medicare Diabetes and Prevention Program (MDPP)
 - Diabetes Self-Management Training (DSMT)
 - Medical Nutrition Therapy (MNT)
- Encourage your patients to participate in these programs

Behavioral Health Integration Services

Psychiatric Collaborative Care Model

- Integrating behavioral health care (BHI) with primary care is an effective strategy for improving outcomes for the millions of Americans with mental or behavioral health conditions
- Medicare makes separate payments to physicians and nonphysician practitioners for BHI services they furnish to beneficiaries over a calendar month
- What is the Psychiatric Collaborative Care Model
 - Model of behavioral health integration that enhances “usual” primary care by adding two key services to the primary care team
 - Care management support for patients receiving behavioral health treatment
 - Regular psychiatric inter-specialty consultation

Deficit Care Program Resources

- [Our website](#) > Medical Policy & Review> Policy Education Topics
 - Diabetes Awareness
 - Medicare Diabetes Prevention Program
 - Diabetic Self-Management Tool for Billing
 - Medical Nutrition Therapy Tool for Billing
 - Frequently Asked Questions for Diabetes Self-Management Training and Medical Nutrition Therapy
 - Related Diabetes Awareness Preventive Service Guide
 - Mental Health Awareness
 - Behavioral Health Integration Services
 - Mental Health Services
 - Mental Health Billing Guide

Thank You!

- Follow-up email
 - Attendees will be provided a Medicare University Course Code
- Questions?

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