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Medicare Secondary Payer (MSP)

Identifying Primary Payers

4/6/2022

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

Today's Presenters

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Objectives

- Ensure providers are aware of
  - Their responsibility to identify payers primary to Medicare
  - How to identify payers primary to Medicare
  - MSP screening process and MSP questionnaire guidelines

Agenda

- 2022 MSP webinar series and additional events
- MSP Resources handout
- Identifying primary payers
  - Checking for MSP records in CWF
  - Conducting MSP screening process
  - Determining proper primary payer and submitting claims
- Retirement dates
- Wrap up
- Questions and answers

2022 MSP Webinar Series

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MSP Webinar Series

- 17 different MSP webinars
- Wednesdays except 5/5/2022 (Thursday)
  - March 2022
    - **3/9** = Fundamentals
    - **3/23** = Resources
  - April 2022
    - **4/6** = Identifying Primary Payers
    - **4/20** = Setting Up & Correcting CWF Records
    - **4/27** = MSP Rejections on Primary Claims

MSP Webinar Series

- May 2022
  - **5/4** = Working Aged with EGHP Provision
  - **5/5** = Disabled with LGHP Provision (Thursday)
  - **5/18** = ESRD with EGHP Provision
- June 2022
  - **6/1** = No-fault, Medical-payment and Liability Provisions
  - **6/15** = Submitting Claims When Primary Payer Makes Payment (MSP Billing)
  - **6/22** = MSP Billing Examples

MSP Webinar Series

- July 2022
  - **7/6** = Submitting Claims When Primary Payer Does Not Make Payment (Conditional Billing)
  - **7/20** = Conditional Billing Examples
  - **7/27** = MSP Claims That RTP
- August 2022
  - **8/3** = Conditional Claims That RTP
  - **8/10** = Adjustments Involving MSP
  - **8/17** = MSP Payment and Beneficiary Responsibility

Additional 2022 MSP Events

- Virtual conferences include MSP as topic
  - Typically held twice a year
- Let's Chat About MSP Part A webinars
  - For all Part A providers including HHHs and FQHCs/RHCs
  - Ask MSP-related questions (no PHI)
  - Event posted to our website but no presentation
  - Monthly, Thursdays except 11/29/2022 (Tuesday)
    - 1/27, 2/24, 3/31, 4/28, 5/26, 6/30, 7/28, 8/25, 9/29, 10/27, 11/29 and 12/15

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Tip: Learn About MSP and MSP Provisions

- Many resources are available
  - **Fact:** The more you know about MSP, the more easily you can meet your MSP-related provider responsibilities
  - Refer to MSP Resources handout

Identifying Primary Payers

Providers' MSP-Related Responsibilities

- Per your Medicare provider agreement
  - Determine if Medicare is primary payer for beneficiary's services
    - Identify payers primary to Medicare
  - Submit claims to primary payer(s) before Medicare
  - Submit MSP claims when required

Identifying Payers Primary to Medicare

- Under CMS' Medicare provider agreement, any provider that submits claims to Medicare must determine whether or not Medicare is primary payer for those services
  - Therefore, all Medicare providers are required to identify payers primary to Medicare
    - Are conditions/criteria for one or more MSP provisions met?

Benefits of Identifying Payers Primary to Medicare

- Compliance with Medicare provider agreement
- Improve cash flow
- Reduce staff time spent correcting claims
- Prevent being selected for MSP hospital review

Methods Providers Use to Identify Payers Primary to Medicare

- Check for MSP information in Medicare's records
  - Providers **must** check for MSP records for beneficiary in CWF
    - For each service rendered
- Collect MSP information from beneficiary or representative
  - Providers **may** need to ask questions about other insurance
    - For every IP admission or OP encounter, with some exceptions
      - You may not need to ask questions at all
      - You may need to ask questions but not as often

Did You Know

- The process of collecting MSP information from a beneficiary or their representative by asking questions about other insurance is known as the MSP screening process
  - It is the process by which a provider asks all Medicare beneficiaries, regardless of their age, questions concerning their most recent MSP status

Checking for MSP Records in CWF

How Providers Check for MSP Records in CWF

- Part of Medicare eligibility verification process
- Various ways to check CWF
  - NGSConnex
    - NGSConnex User Guide (Eligibility Lookup > Medicare Secondary Payer)
  - IVR system (Touchtone 4)
    - Part A Provider IVR User Guide (Eligibility Lookup > Other Insurance)

How Providers Check for MSP Records in CWF

- CMS' HETS (X12 270 transmission and 271 response)
  - X12 270 transmission used to
    - Transmit health care eligibility benefit inquiries from health care providers, insurers, clearinghouses and other health care adjudication processors
    - Make inquiries about Medicare eligibility; need beneficiary's entitlement date
  - X12 271 response
    - Appropriate response mechanism for health care eligibility benefit inquiries
- CMS HETS 270/271 5010 Companion Guide (MSP in Table 42)

When to Check for MSP Records in CWF

- May check
  - During admission/registration process
  - At time of service/during service
  - During billing process
- Should ideally check
  - Before patient leaves facility
- Must check
  - Before claim is submitted to Medicare

MSP Records in CWF – Available Information

- If MSP record(s) present, information includes:
  - **MSP VC** and **primary payer code** for each MSP provision
    - See **MSP VC Chart** on next slide
      - Use MSP VC to report primary payer's payment on MSP claim
  - MSP effective date
  - MSP termination date, if applicable
  - Subscriber's name
  - Policy number
  - Patient's relationship to insured
  - Insurer's information

MSP VC Chart

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 Insurance (automobile and other types)	D
15	WC or WC 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

Conducting an MSP Screening Process

Does Provider Need to Ask Questions About Other Insurance?

- Is service an exception? (See slides 39-45)
  - If yes, then NO
  - If no, continue
- Is there MSP information in Medicare's records?
  - If no, then YES
  - If yes, continue

Does Provider Need to Ask Questions About Other Insurance?

- Ask beneficiary or representative if there are any updates to MSP information in Medicare's records?
  - If yes, then YES (and contact BCRC if necessary)
  - If no, then NO
    - May need to ask about insurance not found in Medicare's records
      - For example:
        - » If MSP record is for GHP, ask accident questions, if applicable
        - » If MSP record is for accident, ask applicable GHP questions

Did You Know

- Conducting a proper MSP screening process is the cornerstone of the MSP program
  - It ensures other payers are identified and helps prevent incorrect billing and Medicare overpayments

Common Questions About MSP Screening Process

- Providers often ask
  - How can we collect MSP information?
  - What does CMS' model MSP questionnaire look like?
  - When must we collect MSP information?
  - How often must we collect MSP information?
  - Who collects MSP information?
  - How should we record collected information?

Common Questions About MSP Screening Process

- How should we handle situations when beneficiary is unable to/refuses to respond?
- What are CMS' documentation requirements?
- How should we use collected information to determine appropriate primary payer?
- How should we handle situations when beneficiary cannot recall retirement date?
- Where can we find CMS' requirements for identifying primary payers?

Recommendation

- We recommend providers to develop internal written procedures for conducting your MSP screening process to provide consistency amongst those who conduct it

How Providers Collect MSP Information

- Use hardcopy and/or online MSP questionnaire
  - **CMS' model MSP questionnaire** or
  - Provider's own form as long as it is compliant
    - Current (up-to-date) and at least same content and intent as model
- Tips
  - Review your questionnaire/form for compliance
  - Ask questions directly rather than send to beneficiary
  - Have MSP reading material available for beneficiaries

CMS' Model MSP Questionnaire

- Questions that may help identify primary payers
- Three parts; each with questions to ask in sequence
  - **Part I** – Black Lung, WC, No-Fault (automobile and other types) and Liability
  - **Part II** – Medicare entitlement and employer GHPs
  - **Part III** – ESRD Medicare entitlement, if applicable (including dual entitlement – Age and ESRD or Disability and ESRD)
- CMS IOM Publication 100-05, *Medicare Secondary Payer (MSP) Manual*, Chapter 3, Section 20.2.1

20.2.1 - Model Admission Questions to Ask Medicare Beneficiaries

(Rev. 10359; Issued: 09-15-20 Effective: 12-07-20 Implementation: 12-07-20)

The following *outline of questions provides points of data to gather from Medicare beneficiaries that are helpful for providers to determine who has primary payment responsibility for a claim or set of claims by asking the questions upon each inpatient and outpatient admission. The information assists in the proper coordination of benefits to ensure adherence to Medicare Secondary Payer (MSP) provisions as outlined in section 1862(b) of the Social Security Act.*

Part I. *INFORMATION ABOUT BLACK LUNG, WORKERS' COMPENSATION (WC), NO-FAULT AND LIABILITY*

1. *Are you receiving benefits under the Black Lung Benefits Act (BL)?*

2. *If yes, the following BL information is required to submit claims appropriately:*
   - *Date Black Lung Benefits began*

   Note: BL is the primary payer for claims related to BL.

3. *Was the illness/injury due to a work-related accident/condition?*

4. *If yes, the following WC information is required to submit claims appropriately:*
   - *Name and address of employer*
   - *Name and address of insurance carrier*
   - *Policy or claim number*
   - *Date of the workplace illness or the injury*

   Note: WC is the primary payer only for services related to work-related injuries or illness.

5. *Are you receiving treatment for an injury or illness covered under no-fault (and/or medical-payment coverage) including premises or automobile?*

6. *If yes, the following no-fault/auto insurance information is required to submit claims appropriately:*
   - *Name and address of insurance carrier*
   - *Policy or claim number*
   - *Date of illness or injury*

   Note: No-fault insurance is the primary payer only for services related to the accident.

7. *Are you receiving treatment for an injury, or illness, which another party may be liable?*

8. *If yes, the following liability information is required to submit claims appropriately:*
   - *Name and address of insurance carrier*
   - *Policy or claim number*
   - *Date of illness or injury*

   Note: Liability insurance is the primary payer only for services related to the liability settlement, judgment, or award.

Part II. *INFORMATION ABOUT MEDICARE ENTITLEMENT AND GROUP HEALTH PLANS*

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.

2. *Do you have group health plan (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.

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

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*
   - *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)*

Part III. *INFORMATION ABOUT THE PATIENT IF ESRD MEDICARE ENTITLEMENT APPLIES (INLUDING DUAL ENTITLEMENT: AGE AND ESRD OR DISABILITY AND ESRD)*

1. *Do you have employer group health plan (GHP) coverage through yourself, a spouse, or family member if dually entitled based on Disability and ESRD?*
   If yes, the employer GHP may be primary to Medicare. Continue below.

2. *Have you received a kidney transplant?*
   - *Date of transplant*

3. *Have you received maintenance dialysis treatments?*
   - *Date dialysis began*

4. *Are you within the 30-month coordination period?*

   Note: the 30-month coordination period starts the first day of the month an individual is eligible for Medicare (even if not yet enrolled in Medicare) because of kidney failure (usually the fourth month of dialysis) regardless of entitlement due to age or disability. If the individual is participating in a self-dialysis training program, or has a kidney transplant during the 3-month waiting period, the 30-month coordination period starts with the first day of the month of dialysis or kidney transplant.

5. *Were you receiving GHP coverage prior to and on the date of Medicare entitlement due to ESRD (or simultaneous entitlement due to ESRD and Age or ESRD and Disability)?*
   Note: If yes, the GHP is primary during the 30-month coordination period.

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

Collect Additional Information for Billing Purposes

- Collect additional information if applicable
  - Veterans who want to use VA coverage instead of Medicare
  - Beneficiaries receiving services covered by a Government Research Grant
  - Retirement dates of beneficiary and/or spouse/family member
    - If a person is retired, he/she does not have current employment status for purposes of Working Aged or Disabled MSP provisions
      - CMS IOM Publication 100-05, *MSP Manual*, Chapter 1, Section 50
    - If beneficiary/spouse cannot call his/her retirement date, follow CMS' policy for collecting and reporting retirement dates on claims

When to Collect MSP Information

- You may collect MSP information
  - Prior to service
  - At time of service
  - During service
  - At conclusion of service
- You must collect MSP information before submitting claim to Medicare
  - Unless service or situation is exception

How Often Must Hospitals Collect MSP Information

- CMS has explicit requirements for hospitals with regard to frequency of administering MSP screening
  - Hospitals must administer MSP screening process for every IP admission and OP encounter of beneficiary unless
    - MSP record exists, no updates needed, no other insurance (slide 27)
    - Service is an **exception**
      - Services rendered to MAO plan enrollees (not required)
      - Hospital reference laboratory services (not required)
      - Hospital recurring OP services (initially, then once every 90 days)
      - Provider-based services such as ambulance (may be required)

Hospital Services Rendered to MAO Plan Enrollees

- Hospitals **are not required** to collect MSP information (or to maintain or report this information to FFS Medicare) if beneficiary is MAO plan enrollee

Hospital Reference Laboratory Services

- Hospitals **are not required** to collect MSP information if beneficiary is receiving reference (nonpatient) laboratory services
  - Clinical laboratory diagnostic tests (and/or interpretation of such tests) furnished **without face-to-face encounter** between beneficiary and hospital
  - Typically submitted on TOB 14X
    - **Example:** Beneficiary seen in physician's office, physician draws specimen which is sent to hospital laboratory and hospital submits claim to Medicare

Did You Know

- Hospitals **are required** to collect MSP information if beneficiary is receiving hospital laboratory services and there **is face-to-face encounter**, at hospital, between beneficiary and hospital
  - **Example:** Beneficiary goes to hospital's laboratory to have specimen taken for testing and hospital submits claim to Medicare

Hospital Recurring Outpatient Services

- Hospitals **are required** to collect MSP information if beneficiary is receiving recurring OP services
  - A beneficiary is considered to be receiving recurring OP services if he/she receives identical services and treatments on OP basis more than once within billing cycle
- Collect **initially** and then **once every 90 days**

Hospital-Based Services

- Provider-based service (e.g., hospital-affiliated ambulance provider)
  - Hospital-affiliated providers
    - Required to collect MSP information if hospital staff did not do so
    - Not required to collect MSP information if hospital staff did so
- Independent providers (e.g., ambulance provider not affiliated with hospital)
  - Independent providers not affiliated with hospital
    - Required to collect MSP information

How Often Must Providers Collect MSP Information (Other Than Hospitals)

- CMS does not have explicit MSP collection requirements with regard to frequency for provider types other than hospitals
  - It is in provider's best interest to collect MSP information as frequently as possible to ensure you are filing proper claims with Medicare
  - We recommend all providers follow same frequency guidelines established for hospitals

Did You Know

- If any provider fails to file proper claims with Medicare, Medicare can recover our payments, and pursue civil monetary penalties or damages under the False Claims Act in cases where an entity knowingly files claims incorrectly

Who Collects MSP Information?

- Typically, admissions/registration staff
  - This staff must know
    - When and how often to collect MSP information
    - How to collect the MSP information
    - What information to collect
    - Criteria for each MSP Provision
    - Relevance of each MSP question
    - How to assist beneficiary in understanding MSP questions
    - How to determine who is proper primary payer

How Should Provider Record Collected Information

- We recommend you record
  - Date on which questions are asked
  - Beneficiary's responses to questions; positive and negative
    - Do not assume what beneficiary's response would be and fill it in
    - Do not pull forward information from prior DOS without verifying it
  - Reason(s) questionnaire/form is blank or incomplete
  - Actions taken to obtain MSP information when beneficiary is unable/refuses to respond to MSP questions
  - Retirement dates, even when beneficiary/spouse cannot recall

Beneficiary Unable to Respond or Refuses to Respond to MSP Questions

- If provider can't complete MSP questionnaire/form
  - Beneficiary **unable** to respond, perhaps due to health condition
  - Beneficiary **refuses** to respond
    - Stated will not provide responses/information to you ***or***
    - Has not responded to your attempts to reach him/her
- You may develop procedures for your staff
  - Include details on when, how often and how you will contact beneficiary (telephone calls, mail, certified mail, etc.)
  - Document all efforts made

Beneficiary Unable to Respond

- In your procedures, include steps to
  - Ask beneficiary again at a later time
  - Ask representative or family member (whoever is completing other required paperwork)
- If your actions are unsuccessful
  - Use any MSP information in Medicare's records for beneficiary
    - If MSP record in CWF, submit claim to that plan
    - If no MSP record in CWF, submit claim to Medicare as primary
      - Do not bill Medicare as primary in known MSP situations (e.g., accidents)
      - Adjust claim to MSP if you later identify and bill primary payer

Beneficiary Refuses to Respond

- In your procedures, include steps to
  - Explain to beneficiary why information is needed
  - Continue to contact beneficiary for information (telephone calls, mail, certified mail, etc.)
- If your actions are unsuccessful
  - Use any MSP information in Medicare's records for beneficiary
    - If MSP record in CWF, submit claim to that plan
    - If no MSP record in CWF, submit claim to Medicare as primary **with CC 08 (zero 8)**
      - Claim will be processed as primary
      - CWF alerts BCRC of claim and they develop with beneficiary

CMS' Documentation Requirements to Support MSP Screening Process

- Retain following items to demonstrate development for primary payers occurred
  - Completed MSP questions
    - Beneficiary is not required to sign completed questionnaire
    - Hospitals must be able to provide notation explaining why MSP questionnaire is not completed if requested during MSP Hospital Review
  - CWF print out or copy of 271 response including all notations
- Maintain MSP information for ten years from DOS
- Retain responses to questions on paper, optical image, microfilm or microfiche

Tip: Review Completed MSP Questionnaire/Form Prior to Billing

- Your billing staff must
  - Have access to your completed MSP questionnaires/forms since these have information regarding payers that may be primary to Medicare
  - Be able to view any notation indicating MSP questionnaire/form was not completed and why
    - **Example:** Beneficiary or representative stated MSP records in CWF did not require updates

Determine Proper Order of Payers

- Determine which plan is primary, secondary, tertiary, etc. payer
  - Use collected MSP information and your knowledge of MSP provisions
    - In general, Medicare is primary when beneficiary
      - Has no other insurance or coverage
      - Has insurance or coverage but it does not meet MSP provision criteria requirements
      - Had insurance or coverage, it met MSP provision criteria requirements but it is no longer available
    - In general, other payer(s) is primary when beneficiary
      - Has insurance or coverage that meets MSP provision criteria requirements and it is available

Submit Claims According to Determination You Make

- Submit claims to Medicare accordingly
  - If Medicare is primary
    - Submit Medicare primary claim
  - If another payer is primary
    - Submit claim to that payer first and Medicare secondary if required
      - May need to submit conditional claim to Medicare if primary payer does not pay for a valid reason or promptly (within 120 days; accidents only)
  - If there is more than one primary payer
    - Submit claims to those payers and to Medicare third (tertiary), etc.

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 in CWF or that would require the set up of a new MSP record in CWF
  - If so, you may need to contact the BCRC
    - Refer to MSP Resources handout

Retirement Dates

Retirement Dates

- Reporting retirement dates on claims
  - Beneficiary's = OC 18 with date
  - Spouse's = OC 19 with date

CMS' Policy When Beneficiary or Spouse Cannot Recall Retirement Date

- CMS has a policy for hospitals to follow for **reporting retirement date(s) on claims** in cases when beneficiary and/or spouse cannot recall
  - We suggest other providers follow same policy
  - CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 3, Section 20.1, #4

CMS' Policy: Beneficiary Retired Before Medicare Entitlement

- Report beneficiary's retirement date = beneficiary's Part A entitlement date
  - If beneficiary cannot recall their own retirement date but knows it occurred prior to their Medicare Part A entitlement date
  - Example #1
    - Beneficiary knows they retired before obtaining Medicare but doesn't recall exact date
    - If beneficiary's Part A entitlement date = 10/1/2016, report beneficiary's retirement date = 10/1/2016

CMS' Policy: Spouse Retired Before Beneficiary's Medicare Entitlement

- Report spouse's retirement date = beneficiary's Part A entitlement date
  - If beneficiary cannot recall their spouse's retirement date but knows it occurred prior to beneficiary's Medicare Part A entitlement date
  - Example #2
    - Beneficiary knows his/her spouse retired before beneficiary obtained Medicare but doesn't recall exact date
    - If beneficiary's Part A entitlement date = 5/1/2015, report spouse's retirement date = 5/1/2015

CMS' Policy: Beneficiary Retired After Medicare Entitlement

- Report beneficiary's retirement date = date that is five years prior to DOS
  - If beneficiary cannot recall his/her own retirement date but knows they worked beyond his/her Medicare Part A entitlement date, and that it has been at least five years since they retired
  - Example #3
    - Beneficiary knows they retired after obtaining Medicare but doesn't recall exact date and it has been at least five years
    - If DOS = 1/11/2022, report beneficiary's retirement date = 1/11/2017

CMS' Policy: Spouse Retired After Beneficiary's Medicare Entitlement

- Record/report spouse's retirement date = date that is five years prior to DOS
  - If beneficiary cannot recall his/her spouse's retirement date but knows they worked beyond beneficiary's Medicare Part A entitlement date and that it has been at least five years since spouse retired
  - Example #4
    - Beneficiary knows his/her spouse retired after beneficiary obtained Medicare but doesn't recall exact date and it has been at least five years
    - If DOS = 2/22/2022, report spouse's retirement date = 2/22/2017

CMS' Policy: Retired Within Last Five Years

- Obtain retirement dates from an appropriate informational source before reporting retirement dates on claims
  - If beneficiary cannot recall their own retirement date but knows they worked beyond their own Medicare Part A entitlement date and it has been less than five years since they retired
  - If beneficiary cannot recall their spouse's retirement date but knows their spouse worked beyond beneficiary's own Medicare Part A entitlement date, and it has been less than five years since spouse retired

Wrap Up

Polling Question #1

- A provider that submits claims to Medicare for services rendered to a Medicare beneficiary must determine whether or not Medicare is the primary payer for that beneficiary's services.
  - True
  - False

Polling Question #2

- Before submitting claims to Medicare for a beneficiary, a provider must ask them questions concerning their most current MSP status unless the situation or service is an exception.
  - True
  - False

Polling Question #3

- To conduct an MSP screening process with a beneficiary, a provider must use CMS' model MSP questionnaire.
  - True
  - False

Polling Question #4

- After a provider completes the MSP screening process with a beneficiary, it must ask the beneficiary to sign the completed MSP questionnaire.
  - True
  - False

Polling Question #5

- After a provider completes the MSP screening process with a beneficiary, it must document and maintain the information for at least 10 years.
  - True
  - False

What You Should Do Now

- Be familiar with MSP resources
- Develop and implement policies that ensure your facility meets its MSP responsibilities
- Ensure your admissions/registration department works closely with your billing department
- Share this presentation with coworkers
- Continue to attend our MSP webinars

Thank You!

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

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