

Medicare Secondary Payer Nongroup Health Plans

3/1/2023



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Objective

After this session you will have a better understanding of the MSP nongroup health plan provision guidelines to ensure your claims are being submitted to the Medicare program appropriately.



Today's Presenters: Carleen Parker and Lori Langevin

Medicare Secondary Payer
Nongroup Health Plans (NGHP)

Liability

Workers Compensation

Government Programs

Federal Black Lung Program
Veterans Administration

NGHP Interactive Scenarios

Nongroup Health Plans

Provider Responsibilities

- Ask Medicare patient if service(s) related to injury or illness that resulted from accident or other incident which another party is responsible
- Obtain name, address and policy number of auto/no-fault, liability/WC insurance or other insurance responsible for payment of medical expenses
 - If there is no MSP file showing on eligibility files, then contact BCRC to have appropriate record added
 - ✓ Call 855-798-2627
 - ✓ [Your Billing Responsibilities](#)
 - ✓ [CMS Internet-Only-Manual Publication 100-05, Medicare Secondary Payer \(MSP\) Manual, MSP Model Admission Questions to Ask Medicare Beneficiaries 20.2.1](#)
- Submit all accident related claim to other insurer before submitting claim to Medicare

Defining Terms

- MSP: Medicare Secondary Payer
 - Term Medicare uses for situations when Medicare is not primary claim payer
 - ✓ After primary insurance processes claim, Medicare may pay secondary
- NGHP: Nongroup Health Plans
 - Health coverage based on services related to work-related illness or injury sustained in accident
- References
 - [CMS IOM Publication 100-05, Medicare Secondary Payer \(MSP\) Manual, Chapter 1 – Background and Overview](#)
 - [CMS IOM Publication 100-05, Medicare Secondary Payer \(MSP\) Manual, Chapter 2 – MSP Provisions](#)

Who Pays First?

- Auto/no-fault, liability, or WC insurance pays primary to services provided for injury or illness related to auto/no-fault, liability or WC
 - Medicare may process secondary
 - Cases can remain active for years
- Medicare pays first for medically necessary service unrelated to auto/no-fault, liability or WC

Auto/No-Fault

- Medicare may be secondary payer to auto/no-fault insurance
 - Primary payment made for medical expenses for injuries sustained on property or premises of insured, or in use, occupancy, or operation of an auto, regardless of who was responsible for causing accident
 - Auto/No-fault insurance includes
 - ✓ Automobile
 - ✓ Homeowners'
 - ✓ Commercial
 - Medicare will pay conditional when auto/no-fault insurer will not pay promptly
 - ✓ Promptly means payment within 120 days after receipt of claim
- Example of auto/no-fault insurance
 - Individual or driver has \$5,000 medical payments coverage on policy
 - \$5,000 is considered auto/no-fault insurance and primary to Medicare

Auto/No-Fault Scenario

A 72 year old man is a passenger in car when an accident happens. The car owner has personal injury coverage as part of auto insurance. The passenger was transported and treated at the emergency room. He was asked about insurance coverage and provided the hospital staff with Medicare information and also provided the auto insurance information, because the injuries resulted from the auto accident.

Who should the emergency room provider bill first ?

The provider will submit a claim to the auto insurance for the emergency room services and bill Medicare any Medicare-covered services not paid for by auto insurance.



Liability

- Medicare may be secondary payer to liability insurance
 - Primary payment based on legal liability for injuries, or damages to property
 - ✓ Auto liability and uninsured/underinsured motorist
 - ✓ Homeowners'
 - ✓ Product/Malpractice
 - ✓ Wrongful death
- Medicare will pay conditional when liability insurer will not pay promptly
 - Promptly means payment within 120 days after the earlier of
 - ✓ Date claim is filed with insurer or the lien is filed; or
 - ✓ Date service was furnished or date of discharge for inpatient hospital
- Example of liability insurance
 - Beneficiary injured in an auto accident and files claim against alleged responsible party and receives payment
 - Medicare is secondary to liability insurance payment

Liability Scenario

A 70 year old man was shopping at his local grocery store on a snowy day. He slipped and fell on the sidewalk as he was leaving the store and was taken to the emergency room (ER). The ER staff member asked how the injury occurred. He indicated it happened at the grocery store. The ER staff asked if he was given insurance information. The store manager that accompanied him to the hospital provided the ER staff with the store's liability insurance information.

Who should the emergency room provider bill first?

The provider will submit a claim to the store's liability insurance and then to Medicare if any Medicare-covered services aren't paid for by liability insurance.



Workers' Compensation

- Medicare is secondary payer to workers' compensation (WC) benefits
 - When services rendered are related to injury, illness or disease sustained at work
 - ✓ Either under current or past employment
 - Medicare will pay conditional when a WC insurer will not pay promptly
 - ✓ Promptly means payment within 120 days after receipt of the claim
- Example of WC
 - Warehouse worker suffers a back injury while working
 - All related medical bills are the primary payment responsibility of the WC insurer

WC Scenario

A 65 year old man has Medicare and works part time at a shoe store with no health benefits. While working at the shoe store, he tripped over a stack of boxes and the display toppled over him injuring his shoulder. He filed a claim with the store's WC insurance. He received treatment for the injury at his doctor's office, and also followed up with several weeks of physical therapy. He provided both the doctor and therapist with his Medicare card and the WC insurance information.

Who should pay for these services?

Both providers will submit a claim to WC insurance first and will bill Medicare if any Medicare-covered services aren't paid by WC



Diagnosis Codes

- Is it related or not?
 - Diagnosis may be related even if code is not an exact match, because it may be in same range or family of diagnosis codes
 - ✓ Family of diagnosis means first three digits are same
 - ✓ Refer to current coding manuals for more details
- Probe beneficiaries and use CMS Model MSP Questionnaire
 - [MSP Model Admission Questions to Ask Medicare Beneficiaries 20.2.1](#)

Claim Denials

- If auto/no-fault, liability, or WC insurance denies payment
 - Proof that claim was denied
 - Medicare will pay for Medicare-covered items and services as appropriate
 - ✓ Submit claim with request for conditional Medicare payment
 - ✓ Conditional Payment Policy and Billing Procedures for liability, auto/no-Fault and WC MSP Claims
- [CR 7355: Clarification of Medicare Conditional Payment Policy and Billing Procedures for Liability, No-Fault and Workers' Compensation \(WC\) Medicare Secondary Payer \(MSP\) Claims](#)

Benefits Exhaust

- If auto/no-fault, liability, or WC insurance plan denies payment due to benefit exhaustion
 - Contact BCRC to update MSP records
 - ✓ Call 855-798-2627
 - ✓ [Non-Group Health Plan Recovery - When to Contact the BCRC](#)
 - Claim can be filed to Medicare as primary when records are updated

Workers' Compensation Medicare Set-Aside Arrangements

- WC-related settlement, judgment or award used to pay for future medical, prescription drug or expenses related to WC injury, illness or disease
- Amount determined on case-by-case basis by CMS
- Medicare may not pay until
 - Set-aside amount is exhausted
 - Set-aside amount is accurately accounted for by administrator of WC set-aside arrangement
- Medicare will not pay conditionally for related diagnosis
- After Workers' Compensation Medicare Set-Aside Arrangements amount is exhausted, Medicare will reimburse treatment related to WC
- CMS References
 - [Workers' Compensation Medicare Set Aside Arrangements](#)
 - [CR 5371: New Common Working File \(CWF\) Medicare Secondary Payer \(MSP\) Type for Workers' Compensation Medicare Set-aside Arrangements \(WCMSAs\), to Stop Conditional Payments](#)

MSP Provisions/Categories

- [CMS IOM Publication 100-05, Medicare Secondary Payer Manual, Chapter 2](#)
 - Section 40: Liability Insurance
 - Section 50: Workers' Compensation
 - Section 60: No-Fault Insurance

Conditional Payment Auto/No-Fault, Liability, Workers' Compensation

Conditional Payment

- Conditional payment is payment made by Medicare when there is evidence that payment has not been made or cannot reasonably be expected to be made promptly
- Avoid imposing financial hardship on provider/beneficiary while awaiting decision in contested case
- Payments are made “on condition” that Medicare will be refunded if payment is made
 - Medicare has right to recover any conditional payments
- Conditional payment may be made if both are true
 - Liability (including self-insurance), auto/no-fault, or WC insurer is responsible for payment; and
 - Claim is not expected to be paid promptly

Prompt Period

- Liability insurance (including self-insurance) payment is not made within 120 days after earlier of
 - Date liability claim is filed with insurer/or lien is filed against potential liability settlement
 - Date service was furnished
 - ✓ Date of discharge for inpatient hospital claims
- Claim not paid promptly by liability, auto/no-fault or workers' compensation
 - You may submit claim to Medicare conditionally
- Auto/no-fault and workers' compensation claims means payment within 120 days after receipt of claim, or when there is no evidence to contrary, date of service or discharge date

Conditional Payment Data Requirements

Type of Insurance	CAS	Insurance Type Code 2320 SBR05 from previous payer(s)	Claim Filing Indicator (2320 SBR09)	Paid Amount (2320 AMT or 2430 SVD02)	Condition Code (2300 HI)	Date of Accident
No-Fault/Liability	2320 or 2430 – valid information why NGHP or GHP did not make payment	14 / 47	AM or LM	\$0.00		2300 DTP 01 through 03 and 2300 CLM 11-1 through 11-3 with value AA or OA
Workers' Compensation	2320 or 2430 – valid information why NGHP or GHP did not make payment	15	WC	\$0.00	02-Condition is Employment Related	2300 DTP 01 through 03 and 2300 CLM 11-1 through or 11-3 with value EM

Conditional Payment Scenario

Conditional Payment Scenario

A 70 year old woman on Medicare was shopping at a local grocery store when she slipped on water fracturing her right leg. When she went to the doctor's office for treatment, she was asked about insurance coverage. She was told to file a claim with grocery store liability insurer. The clerk in the doctor's office submitted the claim to liability insurance; however, more than 120 days has passed since the claim was submitted and liability insurance has been refusing to pay.

How can the provider get paid for their service?

The provider submits a claim to Medicare requesting a conditional payment



Government Programs

Federal Black Lung Program

- Beneficiary entitled to medical benefits under FBLP
 - Program designed for individuals diagnosed with black lung disease caused by coal mining
 - ✓ Black lung benefits are considered WC benefits
 - ✓ [Administered by U.S. Department of Labor](#)
- If diagnosis is related to black lung
 - Submit claim to DOL
- If diagnosis is not related to black lung
 - Submit claim to Medicare

Veterans Administration

- [Veterans](#) who have Medicare and VA benefits may choose Medicare or VA for covered benefits
 - Decision must be made each time beneficiary receives health care services
- To receive VA services, beneficiary must
 - Go to VA facility or
 - Have VA authorize services in non-VA facility

Government Programs Scenarios

Scenario One

A 67 year old man is involved in an auto accident and is taken to the emergency room due to his injury. He has automobile insurance and Medicare.

After the physician treats his injury, who should the physician bill first?

- A. Medicare
- B. Auto insurance



Scenario Two

A female, age 70, has Medicare and group health insurance through her employer where she works with 100 employees. While at work, she falls and fractures her left foot.

What is the proper order of payers?

- A. Medicare first, Group Health Plan second
- B. Medicare first, Workers' Compensation second
- C. Workers' Compensation first, Medicare second
- D. Workers' Compensation first, Group Health Plan second, Medicare tertiary



Scenario Three

A 90 year old Medicare beneficiary was treated for an injury to his arm that occurred when he fell at the grocery store. The store's liability insurance covered the care for his arm. Recently, he went to the doctors for his cold and was treated for pneumonia.

Who should be billed for his visit for his cold?

- A. Medicare
- B. Liability insurance



NGS MSP Resources

NGS MSP Resources

Contact Us NGSConnex Subscribe for Email Updates Part B Provider in Maine (JK) ▼

national government SERVICES

HOME EDUCATION ▼ RESOURCES ▼ EVENTS ENROLLMENT APPS ▼

Resources > Claims and Appeals

MEDICARE SECONDARY PAYER (MSP)

Determine if Medicare is Primary or Secondary for a Beneficiary's Services

Set Up a Beneficiary's MSP Record

Correct a Beneficiary's MSP Record

Prevent an MSP Rejection on a Medicare Primary Claim

Prepare and Submit an MSP Claim

Prepare and Submit an MSP Conditional Claim

Prepare and Submit a Medicare Tertiary Claim

Determine if Medicare is Primary or Secondary for a Beneficiary's Services

MSP Provisions require certain coverage to be billed primary to Medicare for beneficiary services. You can determine Medicare as primary, secondary, or greater payer when you **determine whether or not the beneficiary has other coverage.**

Step 1: Collect MSP Information from the Beneficiary During an MSP Screening Process

Helpful Resources

[BCRC Contact Information](#)

[MSP Questionnaire Example](#)

BCRC Contact

1-855-798-2627

TTY/TDD: 1-855-797-2627

MSP Payment Calculator

The screenshot shows the top navigation bar of the National Government Services website. The main header is blue with the logo and navigation links: HOME, EDUCATION, RESOURCES (highlighted), EVENTS, ENROLLMENT, and APPS. A search icon is on the right. Below the header, a breadcrumb trail reads 'Resources > Tools & Calculators'. The main title of the page is 'MEDICARE SECONDARY PAYER PAYMENT CALCULATOR' in large, bold, white letters on a blue background. Below this, the page title 'Medicare Secondary Payer Payment Calculator' is repeated in a grey box. The form itself is white and contains the following fields and controls:

- Enter provider billed amount \$:
- Enter Medicare's allowed amount \$:
- What is the Medicare reimbursement percentage? (80% or 100%):
- Enter primary allowed amount \$:
- Enter primary paid amount \$:
- Enter OSAF amount \$ (if no OSAF, leave blank):

At the bottom of the form are two buttons: 'Calculate' (dark blue) and 'Reset' (white with blue border).

How to Determine the Medicare Secondary Payment Amounts

- First, the MSP payment is determined by the following
 - Actual charge by physician/supplier or OTAF minus amount paid by primary
 - Usual Medicare payment determination
 - [Fee Schedule](#) amount (minus any unmet deductible 2023 – \$226)
 - Multiply results by 80% (or other as appropriate)
 - Highest allowed amount minus amount paid by primary
 - MPFS or amount payable under Medicare (not including deductible or coinsurance)
 - Primary payer's allowed amount
- The Medicare payment is the lowest of the three amounts

Payment Calculator Example

Example	Calculation
<ul style="list-style-type: none">Physician's charge = \$175Primary payer's allowed charge = \$150Primary payer paid 80% of allowed charge = \$120Medicare fee schedule amount = \$125Patient's Part B deductible met	<ol style="list-style-type: none">Actual charge by physician minus primary payers payment<ul style="list-style-type: none">$\\$175 - \\$120 = \\$55$Usual Medicare payment determination<ul style="list-style-type: none">$80\% \times \\$125 = \\100Highest allowed amount minus amount paid by primary<ul style="list-style-type: none">$\\$150 - \\$120 = \\$30$

Questions?

Thank you! A follow-up email will be sent to attendees with the Medicare University Course Code.



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