Medicare Secondary Payer
Non Group Health Plans

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Today's Presenters

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Objectives

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

Agenda

- Medicare secondary payer Non Group Health Plans
  - Auto/No-Fault
  - Liability
  - Workers Compensation
- Government programs
  - Federal Black Lung Program, Veterans Administration
- NGHP Scenarios

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
    - MLN Matters® *SE1416: Updating Beneficiary Information with BCRC*
    - 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 claims payer
    - After primary insurance processes claim, Medicare may pay secondary
- NGHP: Non Group 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

- Alto (age 72), passenger in car when an accident happens. The car owner has personal injury coverage as part of auto insurance. Alto was transported and treated at the emergency room. Alto 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.

Auto/No-Fault Scenario

- Provider will submit claim to auto insurance for 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

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

Liability Scenario

- Provider will submit claim to store's liability insurance and then Medicare if any Medicare-covered services aren't paid for by liability insurance

Workers' Compensation

- Medicare is secondary payer to 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

- Walker Comp (age 65) has Medicare and works part time at a shoe store with no health benefits. While working, Walker Comp was stacking boxes and the display toppled over Walker injuring his shoulder. Walker Comp filed a claim with the store's WC insurance. Walker Comp received treatment for the injury at his doctor's office, and also followed up with several weeks of physical therapy. Walker Comp provided both the doctor and therapist with his Medicare card and the WC insurance information.

WC Scenario

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

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
  - MLN Matters® MM5371 Revised: New Common Working File (CWF) Medicare Secondary Payer (MSP) Type for Workers' Compensation Medicare Set-aside Arrangements (WCMSAs), to Stop Conditional Payments

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
- MLN Matters® *MM7355: Clarification of Medicare Conditional Payment Policy and Billing Procedures for Liability, No-Fault and Workers' Compensation (WC) Medicare Secondary Payer (MSP) Claims*

Conditional Payment Scenario

- Con was shopping at local grocery store when he slipped on water fracturing his right leg. When Con went to the doctor's office for treatment, he was asked about his insurance coverage. He was told to file 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.

Conditional Payment Scenario

- Provider submits 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
- Uniform Services Family Health Plan
  - HMO government program in place of Medicare

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

- Auto/no-fault or liability
  - Injury or illness is auto/no-fault or liability related
- Workers' Compensation
  - Work-related injury or illness and liability of WC Carrier
- 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
- MLN Matters® *MM7355: 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
    - MLN Matters® *SE1416: Updating Beneficiary Information with the Benefits Coordination & Recovery Center*
  - Claim can be filed to Medicare as primary when records are updated

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

Interactive Scenarios

Scenario 1

- Mr. Alocent (age 67) 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 Mr. Alocent for his injury, who should the physician bill first?
  - Medicare
  - Auto insurance

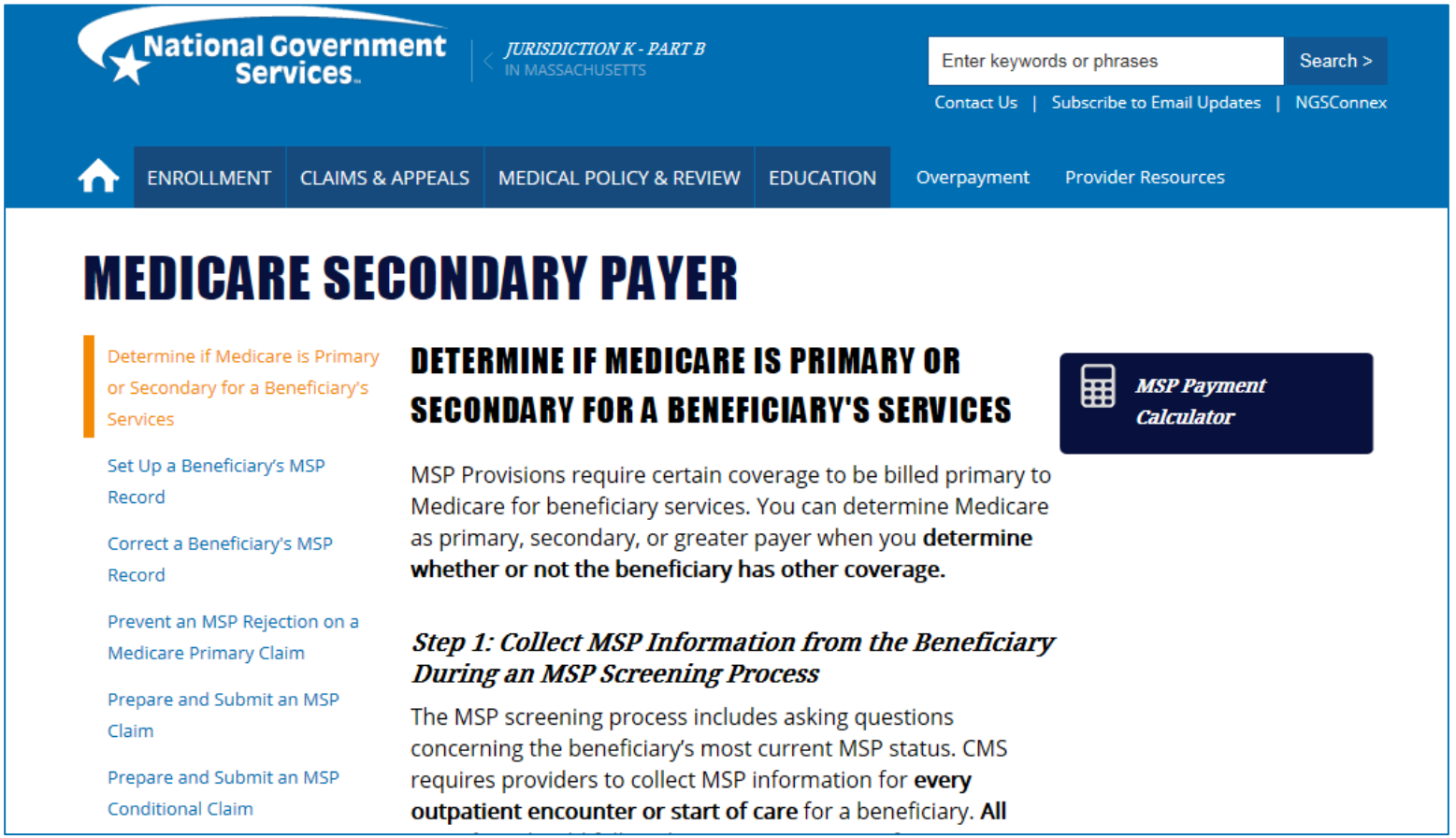
Scenario 2

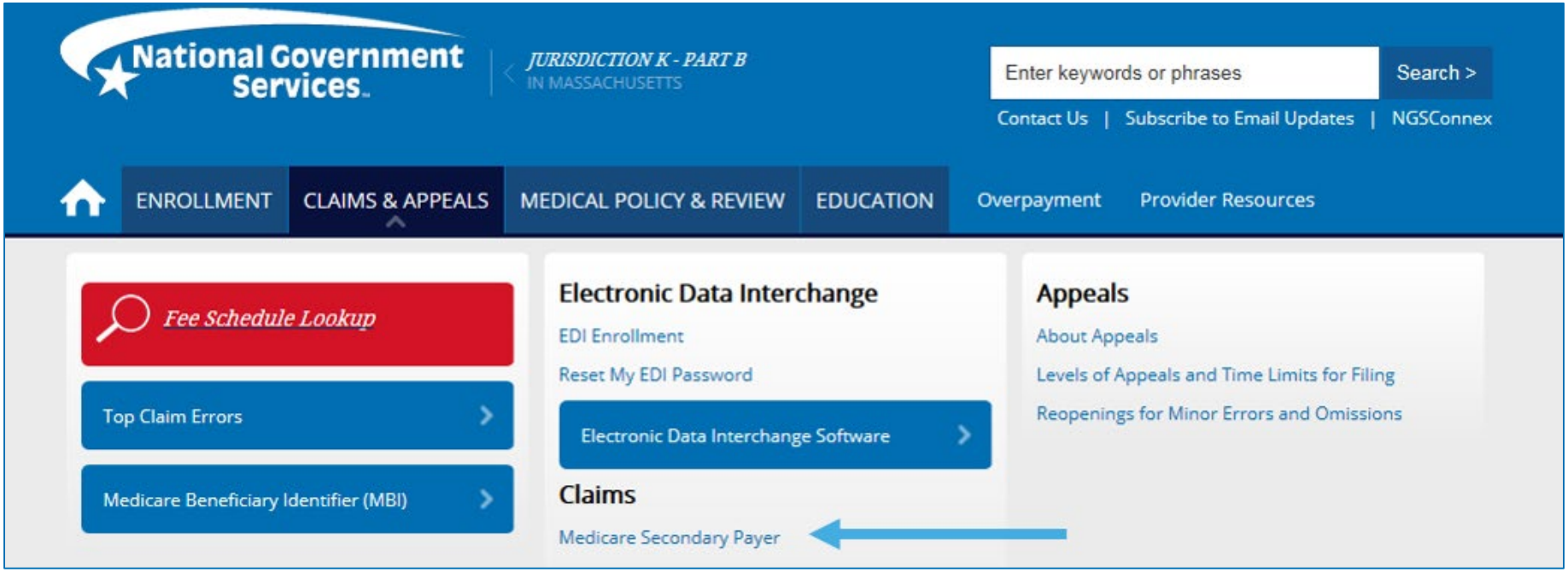
- Mrs. Walker (age 70) has Medicare and group health insurance through her employer where she works with 160 employees. While at work, Mrs. Walker falls and fractures her left foot. What is the proper order of payers?
  - Medicare first, GHP second
  - Medicare first, WC second
  - WC first, Medicare second
  - WC first, GHP second, Medicare tertiary

Scenario 3

- Marty 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, Marty went to the doctors for his cold and was treated for pneumonia. Who should be billed for his visit for his cold?
  - Medicare
  - Liability insurance

NGS Website Reference

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MEDICARE SECONDARY PAYER

DETERMINE IF MEDICARE IS PRIMARY OR SECONDARY FOR A BENEFICIARY'S SERVICES

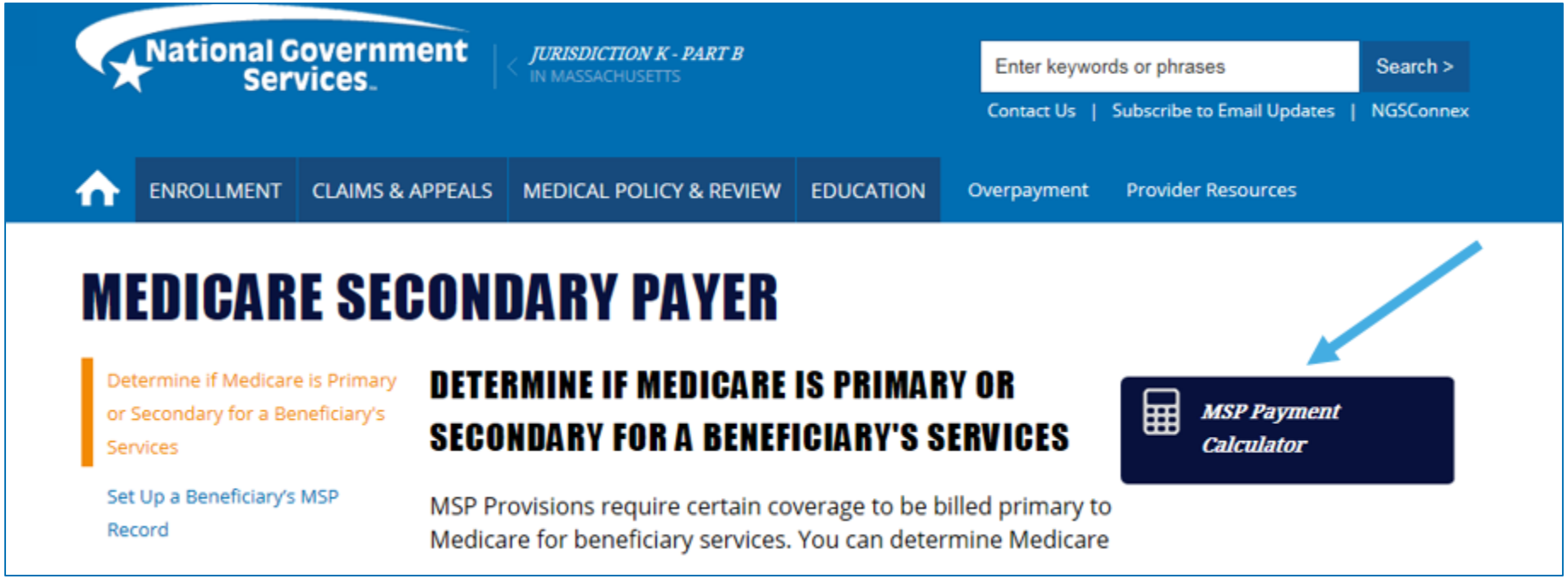
MSP Provisions require certain coverage to be billed primary to Medicare for beneficiary services. You can determine Medicare as primary, secondary, or greater payer when you **determine whether or not the beneficiary has other coverage.**

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

The MSP screening process includes asking questions concerning the beneficiary's most current MSP status. CMS requires providers to collect MSP information for **every outpatient encounter or start of care** for a beneficiary. **All providers** should follow this screening process frequency. In addition, providers are encouraged to verify MSP information with patients on a routine basis. Obtain documentation that supports your completion of the MSP screening process with each beneficiary. CMS does not require that the MSP screening process occur prior to seeing the patient but must be completed and documented prior to submitting a bill to Medicare.

Medicare does not require you to collect MSP information from beneficiaries who are members of MAO plans though the MAO plan may require you to do so.

MSP Payment Calculator



How to Determine the Medicare Secondary Payment Amounts

First, the MSP payment is determined by the following

1. Actual charge by physician/supplier or OTAF minus amount paid by primary
2. Usual Medicare payment determination
   - Fee Schedule amount (minus any unmet deductible 2021 – $203)
   - Multiply results by 80% (or other as appropriate)
3. 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

Example	Calculation

• Physician's charges = $175
• Primary payer's allowed charge = $150
• Primary payer paid 80% of allowed charge = $120
• Medicare fee schedule amount = $125
• Patient's Part B deductible met
	1. Actual charge by physician minus primary payer's payment
	  • $175 - $120 = $55
	2. Usual Medicare payment determination
	  • 80% x $125 = $100
	3. Highest allowed amount minus amount paid by primary
	  • $150 - $120 = $30

Thank You!

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

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