Medicare Secondary Payer

The Fundamentals

Today's Presenters

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Objectives

- Introduce Part A providers to MSP fundamentals
- Provide high-level overview of MSP and your MSP-related responsibilities

Agenda

- 2022 MSP webinar series and additional events
- MSP responsibilities and overview
- MSP provision review
- Identifying primary payers
- Contacting BCRC
- Submitting Medicare primary claims
- Submitting claims to primary payers

Agenda

- Submitting MSP and conditional claims
- Payment of and beneficiary responsibility for MSP claims
- MSP resources (See **MSP Resources** handout)
- 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 (All Wednesdays)
    - **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
  - **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

MSP Responsibilities and MSP Overview

Your MSP Responsibilities Per Medicare Provider Agreement

- Determine if Medicare is primary payer for beneficiary's services

  - Identify payers primary to Medicare

    - Have conditions/criteria of an MSP provision been met?

- Submit claims to other payer before Medicare

- Submit MSP claims when required

What is MSP?

- MSP refers to situations in which Medicare does not have primary responsibility for making payment for a beneficiary's health care claims
  - Beneficiary has other coverage that
    - Is primary to Medicare per Federal law, and
    - Should process such claims before Medicare does

MSP History

- In 1980, Congress began to enact series of provisions that made Medicare secondary payer to certain other payers

  - Known as MSP provisions which

    - Resulted in more situations in which Medicare is not primary

    - Shifted costs from Medicare to private sources

MSP Provisions

- Based on Federal laws
- Help determine proper order of payers
- Also known as MSP categories
- Each has its own set of criteria

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Did You Know

- Term "Medicare Secondary Payer" is similar to term "Coordination of Benefits"

- Both terms describe rules used to determine which payer should process claims first

GHP MSP Provisions

- Related to beneficiary's Medicare entitlement reason
  - Entitlement reasons and related MSP provisions:
    - **Age** for beneficiaries age 65 or older
      - Working Aged with EGHP MSP provision
    - **Disability** for beneficiaries under age 65
      - Disabled with LGHP MSP provision
    - **ESRD** for beneficiaries any age
      - ESRD with EGHP MSP provision

Non-GHP MSP Provisions

- Not related to beneficiary's Medicare entitlement reason
  - Federal Black Lung program
  - Government research grant
  - Governmental entities
    - Certain coverage, such as VA, is considered "exclusion" to Medicare coverage; secondary payment may not be permitted
  - Workers' compensation (WC)
  - No-fault and medical-payment insurance
    - All types including automobile and premises
  - Liability insurance

MSP Fact

- Other coverage or insurance available to a beneficiary may or may not be primary to Medicare for their services

MSP Provisions – Criteria

- Each provision has its own set of criteria
  - If all criteria within a provision are met
    - Beneficiary's services are subject to that provision
      - Medicare is prohibited from paying for such services if payment was made or can reasonably be expected to be made promptly by primary payer; Medicare is secondary
  - If one or more criteria within a provision are not met
    - Beneficiary's services are not subject to that provision
      - Medicare is primary unless criteria of another MSP provision are met

Tip: Learn More About MSP Provisions

- Many MSP resources are available
  - Attend MSP webinar series and other events
  - Refer to **MSP Resources handout**

MSP Provision Overview

MSP Fact

- If a person is retired, he/she is not considered to have current employment status for purposes of Working Aged with EGHP and Disabled with LGHP MSP provisions

- Reference: CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 1, Section 50

Working Aged with EGHP

- EGHP is primary to Medicare if all five basic criteria are met:
  - Beneficiary is age 65 or over
  - Beneficiary is enrolled in Medicare Part A
  - Beneficiary or spouse (of any age) is currently employed
  - Beneficiary is enrolled in GHP through that employer

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Working Aged with EGHP

- Employer employs 20 or more full- and/or part-time employees

  - Single employer employs 20 or more employees

  - Multi- or multiple-employer; at least one employer employs 20 or more employees

- References: CMS IOM Publication 100-05, *Medicare Secondary Payer Manual,* Chapter 1, Section 10.1 and Chapter 2, Section 10

Disabled with LGHP

- LGHP is primary to Medicare if all five basic 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 that employer

Disabled with LGHP

- Employer employs 100 or more full- and/or part-time employees

  - Single employer employs 100 or more employees

  - Multi- or multiple-employer; at least one employer employs 100 or more employees

- References: CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 1, Section 10.3 and Chapter 2, Section 30

ESRD with EGHP

- EGHP is primary to Medicare if all three basic criteria are met:

  1. Beneficiary is eligible for or enrolled in Medicare based on ESRD

  2. Beneficiary is enrolled in GHP through current/former employer (of any size) or through that of a family member

  3. Beneficiary is in 30-month coordination period

- Reference: CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 2, Section 20

ESRD and Dual Entitlement to Medicare

- Beneficiary is eligible for or entitled to Medicare for more than one reason

  - Eligible for/entitled based on ESRD, then based on disability or age 65

  - Entitled based on a disability or age 65, then develops ESRD

- To determine which plan is primary, apply dual entitlement rule

ESRD and Dual Entitlement to Medicare

- Dual entitlement rule
  - If Medicare is primary before dual entitlement, we remain primary after
  - If EGHP is primary before dual entitlement, it remains primary after (for rest of 30-month coordination period)

- References: *CMS IOM Publication 100-05, Medicare Secondary Payer Manual*, Chapter 1, Section 10.2 and Chapter 2, Section 20.1.3

Federal Black Lung Program

- Provides medical benefits to coal miners disabled as result of lung disease or other illnesses attributable to coal mining

- Initiated by Federal Coal Mine Health and Safety Act of 1969

- Administered through Department of Labor (DOL)

- Primary to Medicare for related conditions

Federal Black Lung Program

- Reference: CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 3, Section 30.2.3

Government Research Grant

- Government financing earmarked for particular services to patients (e.g., in form of a research grant)

- Primary to Medicare

- Medicare cannot pay for same services

- Reference: CMS IOM Publication 100-02, *Medicare Benefit Policy Manual*, Chapter 16, Section 50.3.2

Veteran's Administration

- Veterans with Medicare choose which plan to use for each service

- To receive services under VA, beneficiary must

    - Go to VA facility, or

    - Have VA authorize/agree to pay for services in non-VA facility

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NGS MU

Veteran's Administration

- If chooses VA and VA authorizes/pays for services in non-VA facility

  - Do not submit MSP claims

  - Review article "Billing Medicare Part A When VA-Eligible Medicare Beneficiaries Receive Services in Non VA Facilities"

- Reference: CMS IOM Publication 100-02, *Medicare Benefit Policy Manual*, Chapter 16, Section 50.1

Workers' Compensation

- Provides compensation to employees for injury or disease suffered in connection with employment

- Coverage could be through current or former employer

- Claims typically billed to WC Carrier

- Primary to Medicare for related conditions

Workers' Compensation

- References:

  - CMS IOM Publications

    - 100-02, *Medicare Benefit Policy Manual*, Chapter 16, Section 150

    - 100-05, *Medicare Secondary Payer Manual*, Chapter 1, Section 10.4 and Chapter 2, Section 50 and Chapter 3, Section 30.2.2

No-Fault/Medical-Payment Insurance: Automobile and Other Types

- Pays for expenses (regardless of who may be responsible) for injuries sustained on property or premises of insured, or in use, occupancy or operation of automobile

- Includes, but not limited to, automobile, homeowners and premises insurance

- May also be referred to as med-pay, medical payments, medical expense or personal injury protection (PIP)

No-Fault/Medical-Payment Insurance: Automobile and Other Types

▪ Primary to Medicare for related conditions

▪ References:

  ▪ CMS IOM Publications

  • 100-02, *Medicare Benefit Policy Manual*, Chapter 16, Section 150

  • 100-05, *Medicare Secondary Payer Manual*, Chapter 1, Section 10.5 and Chapter 2, Section 60 and Chapter 3, Section 30.2.2

Liability Insurance

- Provides payment based upon legally established responsibility for injury, illness or damage to property

- Includes, but not limited to automobile liability, uninsured and under-insured motorist, homeowner's liability, malpractice, product liability, general casualty insurance

- Primary to Medicare for related conditions

Liability Insurance

- References:
  - CMS IOM Publications
    - 100-02, *Medicare Benefit Policy Manual*, Chapter 16, Section 150
    - 100-05, *Medicare Secondary Payer Manual*, Chapter 1, Section 10.6 and Chapter 2, Section 40 and Chapter 3, Section 30.2.2

Identifying Primary Payers

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How Providers Can Identify Payers Primary to Medicare

- Must check for MSP information in Medicare's records (CWF) and
  - For each service rendered to beneficiary
  - **No exceptions**
- May need to collect MSP information from beneficiary or representative by asking questions about insurance
  - For every IP admission or OP encounter with beneficiary
  - **Some exceptions**

Check for MSP Information in Medicare's Records

- Part of Medicare eligibility verification process

- Various ways to check CWF for MSP records
  - CMS' HETS (X12 270 transmission and 271 response)
  - NGSConnex
  - IVR system

- When to check
  - May view during admission/registration or billing process
  - Must view before billing Medicare; ideally before patient leaves

MSP Records – Available Information

- If MSP record(s) in CWF, information includes:
  - **MSP VC** or **primary payer code** for 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 relationship
  - 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

How to Ask Questions About Other Insurance

- Use either
  - CMS' model MSP questionnaire
    - Refer to: CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 3, Section 20.2.1
    - Three parts
    - Questions help identify MSP situations
  - Provider's own compliant MSP form
- Questionnaire/form can be in electronic and/or hardcopy format
- May need to collect additional information for billing purposes such as retirement date(s)

CMS's Model MSP Questionnaire - Parts

Part I – Information about Black Lung, WC, No-Fault (automobile and other types) and Liability

Part II – Information about Medicare entitlement and GHPs

Part III – Information about patient, if ESRD Medicare entitlement applies (including dual entitlement: Age and ESRD or Disability and ESRD)

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

- **If Medicare is primary**
  - Submit Medicare primary claim
- **If another payer is primary**
  - Submit claim to other payer first and to Medicare second (MSP) if required
    - May submit conditional claim to us if primary payer does not pay for a valid reason or within 120-day promptly period (accidents only)
- **If more than one payer is primary**
  - Submit claims to those payers, in proper order, and to Medicare third (tertiary), etc.

Contacting BCRC

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**

Who is the BCRC?

- BCRC
  - Contracted by CMS effective 2/1/2014
  - Consolidates activities that support the collection, management, and reporting of other insurance coverage for Medicare beneficiaries
  - Takes actions to identify health benefits available to a Medicare beneficiary and coordinates payment process to prevent Medicare mistaken payments
  - Maintains MSP records (in CWF) and handles most updates to such records
    - BCRC does not process claims or handle claim-specific inquiries

When to Contact the BCRC

- Contact BCRC to
  - Report employment or insurance changes, or any other insurance coverage information
  - Report a liability, no-fault (including medical-payment), or WC case
  - Ask a general MSP question
  - Ask a question regarding secondary claim development questionnaires

Contact BCRC to Update MSP Records

- Contact BCRC to update existing MSP record in CWF if needed

  - Per CMS, providers may call BCRC in certain situations and/or may need to fax them documentation on employer or insurer letterhead
  - Wait for BCRC to update MSP record, then submit relevant claim

- You do not need to contact BCRC to update open

  - MSP VC 12 or 43 records with retirement dates or
  - MSP VC 14, 15, 41 or 47 records if services are not related to accident

    - Use **explanatory claim coding** instead

Contact BCRC to Set Up MSP Records

- Contact BCRC to set up a matching MSP record in CWF if needed
  - **MSP Fact:** A matching record must be present for a MSP or a conditional claim to process
    - Matching record means MSP record contains same insurance information you will report on claim
  - **Tip:** Wait for BCRC to add MSP record, then submit MSP or conditional claim

Submitting Medicare Primary Claims

Submit Medicare Primary Claim With Explanatory Claim Coding

- If Medicare is primary due to retirement
  - Report retirement date(s) on your claim(s)
    - **OC 18** with beneficiary's retirement date and/or
    - **OC 19** with spouse's retirement date
  - You do not need to contact BCRC
  - We will submit MSP record update to BCRC and process claim

Submit Medicare Primary Claim With Explanatory Claim Coding

- ## If Medicare is primary because claim is not related to open accident MSP record in CWF

  - ### Report **remarks** on claim

    - "Claim is not related to open accident VC ___ MSP record"

      - Indicate which record (VC 14, 15, 41 or 47)

      - You must be able to support such remarks

  - ### You do not need to contact BCRC unless you have information to correct/terminate such MSP record

  - ### We may be able to bypass MSP record and process claim

Submit Medicare Primary Claim With Explanatory Claim Coding

- Report all applicable explanatory claim coding to let Medicare know reason we are primary

- For additional claim coding, refer to our website

  - Claims & Appeals > Medicare Secondary Payer

    - Prevent an MSP Rejection on a Medicare Primary Claim

    - Collecting and Reporting Retirement Dates on Medicare Claims

- Contact BCRC to update open MSP record in CWF

  - When Medicare is primary for reason(s) other than

    - Retirement or

    - Claim is not related to open accident MSP record in CWF

Rejections of Medicare Primary Claims Due to Open MSP Records in CWF

- Claim rejects for MSP if there is open MSP record and

  - You did not report explanatory claim coding to indicate reason Medicare is primary and/or

  - You did not contact BCRC to update MSP record

  - You contacted BCRC to update MSP record but did not wait until update was complete before submitting claim

Rejections of Medicare Primary Claims Due to Open MSP Records in CWF

- Claims rejected for MSP
  - Known as cost-avoided claims
  - In FISS status location (S/L) RB9997; reason code 34xxx range
    - 34538 = Claim submitted as primary but open VC 12 MSP record
    - 34540 = Claim submitted as primary but open VC 43 MSP record
  - Must be adjusted (TOB XX7); do not resubmit, will reject as duplicate

Tip

- It is most beneficial for your facility's admissions and/or registration department(s) to work closely with your Medicare billing department(s)

Submitting Claims to Primary Payers Other Than Medicare

If Another Payer is Primary

- Submit claim to primary payer first and to Medicare second, if required

  - Follow-up with primary payers as often as possible

  - **Facts**:

    - Medicare's one-year timely filing regulation applies to MSP claims and most adjustments

    - You must not bill primary payer and Medicare at same time

Primary Payments Received From Medicare and Another Payer

- **If you receive payments from Medicare and another payer for same services**
  - **Determine which payer is correct primary payer**
    - If other payer is primary, adjust Medicare claim (TOB XX7) within 60 days of receipt of payment from other payer; do not cancel
      - For all MSP Provisions except Liability
        - » See CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 3, Section 10.4
      - For Liability MSP Provision
        - » See CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 2, Section 40.2 letter E

Submitting MSP and Conditional Claims

Claim Types

- ## If primary payer
  - ### Paid claim in part
    - Submit **MSP claim (MSP partial-payment claim**)
  - ### Paid claim in full
    - Submit **MSP claim (MSP full-payment claim**); one exception
  - ### Did not pay claim for valid reason
    - Submit **conditional claim**

Claim Types

- Did not pay claim promptly (within 120 days; accident cases only)

  - May choose to submit **conditional claim**

- Did not pay claim because Medicare is primary

  - Submit **Medicare primary claim**

MSP Full-Payment Claims

- **Submit to Medicare although primary payer paid in full and no balance remains**
  - Submit for
    - All IP stays
    - OP services and beneficiary has not met annual Medicare Part B deductible
      - **Home health and hospice providers:** Submit even if beneficiary met annual Medicare Part B deductible
    - **Tips**
      - Include all Medicare covered charges
      - Submit within Medicare's one-year timely filing timeframe

Preparing MSP, Conditional and Medicare Tertiary Claims – Instructions

- Refer to [our website](#)

  - Claims & Appeals > Medicare Secondary Payer >

    - Prepare and Submit an MSP Claim

    - Prepare and Submit an MSP Conditional Claim

    - Prepare and Submit a Medicare Tertiary Claim

Submitting MSP, Conditional and Medicare Tertiary Claims – Options

- **Submit such claims**
  - Electronically via 837I
  - In FISS DDE
  - Hardcopy (UB-04/CMS-1450 claim form) to our Claims Department
    - Approved ASCA waiver is required
      - Refer to **MSP Resources handout** for where to find ASCA waiver request form and Claims Department addresses

Correcting MSP, Conditional and Medicare Tertiary Claims – Options

- Correct such claims in FISS S/L TB9997 or
  - In FISS DDE
- Resubmit new corrected claims
  - Electronically via 837I
  - In FISS DDE
  - Hardcopy (UB-04/CMS-1450 claim form) to our Claims Department
    - Approved ASCA waiver is required
      - Refer to **MSP Resources handout** for where to find ASCA waiver request form and our Claims Department addresses

Adjusting Claims Due to MSP-Related Issue

- **Refer to [our website](#)**

  - Claims & Appeals > Medicare Secondary Payer > Correct or Adjust a Claim Due to an MSP-Related Issue

    - Submit adjustments

      - Electronically via 837I

      - In FISS DDE

      - Hardcopy (UB-04/CMS-1450 claim form) to our Claims Department

        » Approved ASCA waiver is not required

        » Refer to **MSP Resources handout** for where to find our Claims Department addresses

Payment of and Beneficiary Responsibility for MSP Claims

MSP Payment for MSP Claims

- Refer to [our website](#)

    - Claims & Appeals > Medicare Secondary Payer > Determine if Medicare Will Make an MSP Payment

- MSP payment may be made on MSP claim if

    - Primary payer's payment for Medicare-covered charges is less than your charges for those services, and less than total amount payable by Medicare in absence of primary payer's payment, and

    - You do not accept or are not obligated to accept primary payer's payment as full payment for services

MSP Payment for MSP Claims

- Amount of secondary benefit is lowest of six calculations when VC 44 and amount is present

  - Payment can be zero

Beneficiary Responsibility for MSP Claims

- ## Refer to [our website](#)
  - ### Claims & Appeals > Medicare Secondary Payer > Determine Beneficiary Responsibility on an MSP Claim
- ## Beneficiary is responsible for
  - ### Charges/services not covered by Medicare and Medicare deductible/coinsurance not satisfied by primary payer's payment
    - Check Medicare's RA
- ## Beneficiary is not responsible for
  - ### Amounts that primary payers apply toward deductibles, coinsurances and/or copayments (provider bills Medicare by using VC 44 amount)

What You Should Do Now

- Share information with coworkers and other staff

- Continue to learn more about MSP

  - Be familiar with MSP resources

  - Attend our MSP webinar series and other events

- Develop and implement policies that ensure your MSP responsibilities are met

Thank You!

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

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