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Objective

Familiarize you with disabled with a LGHP MSP provision so you can identify and bill proper primary payer for your disabled Medicare patients under age 65.

Today's Presenters

- Provider Outreach and Education Consultants
    - Andrea Freibauer
   - Christine Janiszcak
    - Kathy Mersch

Agenda

- MSP and Your Responsibilities
- MSP Provision Review – Disabled Beneficiary with LGHP
- Disabled – Submitting Claims
- Scenarios and Polling Questions
- References and Resources
- Questions

MSP and Your Responsibilities

What Is MSP?

- Beneficiary has insurance/coverage primary to Medicare
    - Based on federal laws known as MSP provisions
        - Help determine proper order of payers
        - Make certain payers primary to Medicare
- [What is Medicare Secondary Payer?](#)
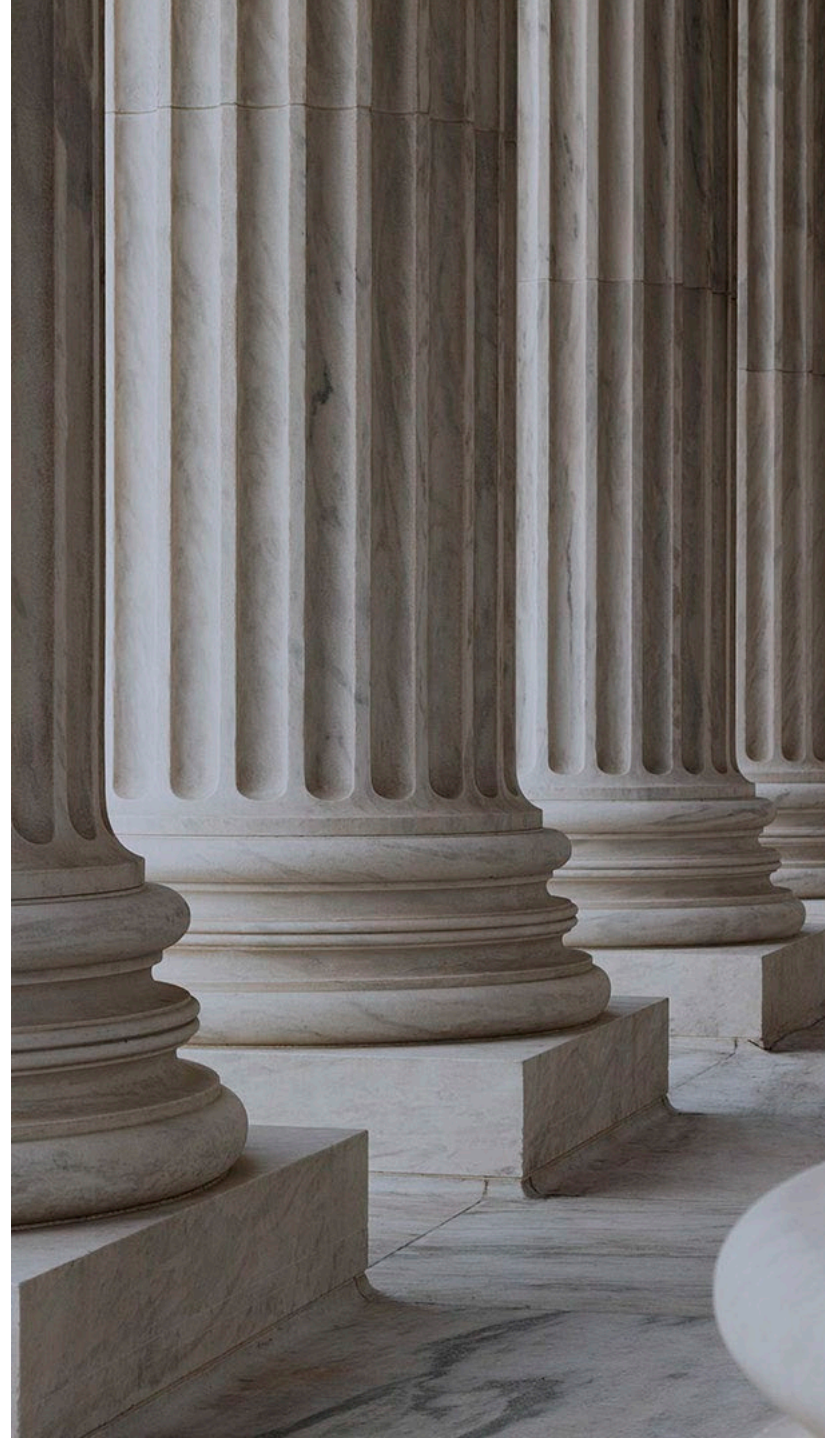
MSP Provision Conditions/Criteria

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

Providers' MSP-Related Responsibilities per Medicare Provider Agreement

Determine if Medicare primary payer

Identify insurance/coverage primary to Medicare

Submit claims to primary payers before Medicare

May be more than one payer primary to Medicare

## Submit proper MSP claims to us when required

Follow MSP claim submission guidelines

Conduct MSP Screening Process to Identify Payers Primary to Medicare

- **Check** for MSP information in Medicare's records
  - Check for MSP records for beneficiary in CWF
    - For each service rendered; no exceptions

- **Collect** MSP information from beneficiary/representative
  - Ask questions about any other insurance/coverage
    - For every IP admission or OP encounter; some exceptions

Check for MSP Records in CWF

- Use provider self-service tools
  - [Identify the Proper Order of Payers for a Beneficiary's Services](#)
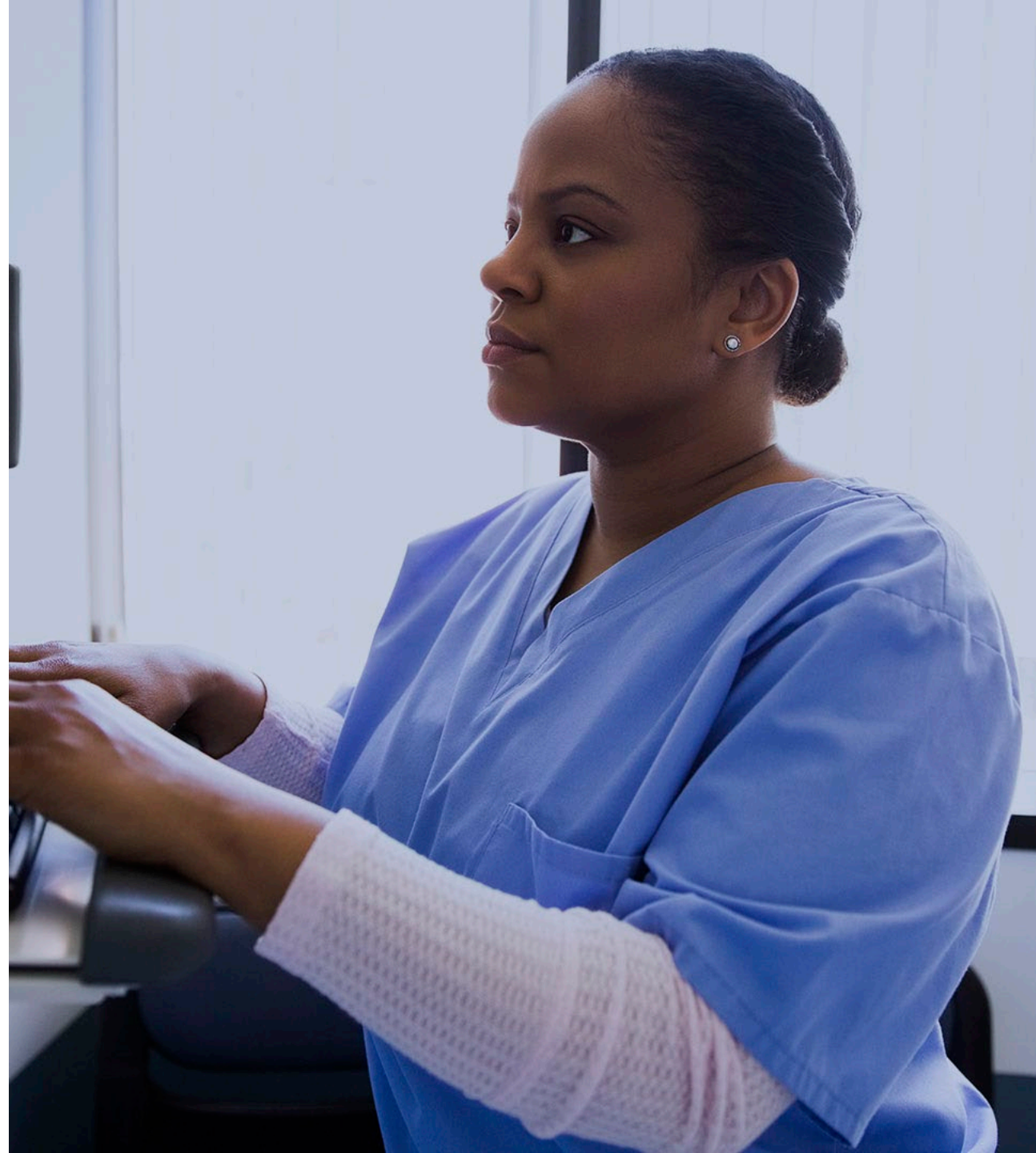
MSP Records in CWF – Information

- If MSP record(s) present, information includes:
    - MSP VC or primary payer code for MSP provision
    - MSP effective date
    - MSP termination date, if applicable
    - Subscriber's name
    - Policy number
    - Patient's relationship to insured
    - Insurer's information

MSP Provisions, VCs and Primary Payer Codes

MSP Provision	Value Code	Payer Code
Working aged, 65 and over, working/spouse working with EGHP, 20 or more employees	12	A
ESRD with EGHP, current/former employer, in 30-month coordination period	13	B
No-Fault (automobile/other types including medical-payment) or No-Fault Set Aside	14	D or T
WC or WC Set Aside	15	E or W
Public Health Services	16	F
Federal Black Lung Program	41	H
Disabled, under 65, working/family member working with LGHP, 100 or more employees	**43**	**G**
Liability Insurance or Liability Set Aside	47	L or S

Collect MSP Information From Beneficiary or Representative

- Ask questions about any other insurance/coverage using:
  - CMS' model MSP questionnaire
    - [CMS IOM Publication 100-05, *Medicare Secondary Payer Manual,* Chapter 3](), Section 20.2.1
      - Part I – Black Lung, WC, No-Fault and Liability
      - **Part II – Medicare entitlement and employer GHPs**
      - Part III – ESRD Medicare entitlement (including dual entitlement)
  - Your own compliant form
    - Same content and intent as model

- Document all responses

CMS' Model MSP Questionnaire – Part II

1. Are you entitled to Medicare based on age, disability or ESRD?

   - *If based on age or disability, stop after Part II.*
   - *If solely based on ESRD, skip Part II; complete Part III.*

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

   - *If yes, employer GHP may be primary. Continue below.*
   - *If no, stop here; Medicare primary.*

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

   - *If age 65 or over and your/spouse's employer has 20 or more employees, GHP primary.*
   - *If disabled and your/spouse's/family member's employer has 100 or more employees, GHP primary.*

4. Collect employer's name/address, GHP's name/address, policy/group numbers, date coverage began, policyholder's name, relationship to patient.

Collect Additional Information for Billing

- Does veteran want to use VA coverage instead of Medicare?

- Are services covered by government research grant?

- When did retirement occur?
  - On claims, report OC 18 and beneficiary's retirement date and/or OC 19 and spouse's retirement date
    - [Collect and Report Retirement Dates on Medicare Claims](#)
  - Policy when beneficiary/spouse cannot recall retirement date
    - [CMS IOM Publication 100-05, *Medicare Secondary Payer Manual,* Chapter 3](#), Section 20.1, #4

Determine Proper Order of Payers

- Use collected information and your MSP knowledge
  - Medicare primary when beneficiary
    - Has no other insurance/coverage
    - Has other insurance/coverage that does not meet MSP provision criteria
    - Had other insurance/coverage that met MSP provision criteria but no longer available
  - Other payer(s) primary when beneficiary
    - Has other insurance/coverage that meets MSP provision criteria and still available

Submitting Claims

- If **Medicare** primary
  - Submit Medicare primary claim
    - Indicate reason Medicare primary

- If **another payer** primary
  - Submit claim to that payer first
  - Submit MSP or conditional claim as appropriate

- If **more than one payer** primary
  - Submit claims to those payers in proper order
  - Submit Medicare tertiary claim

MSP Provision Review – Disabled Beneficiary with LGHP

Disabled MSP Provision

- Medicare secondary to GHPs for Medicare beneficiaries under age 65 with GHP as result of their own or their family members current employment status with employer that has 100 or more employees
  - Applies to GHPs of employers and employee organizations
    - Including multi- and multiple-employer plans with at least one employer that has 100 or more employees

Multi-Employer and Multiple-Employer GHPs

- Multi-employer GHP
  - Jointly sponsored by employers and unions
- Multiple-employer GHP
  - Sponsored by more than one employer

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Disabled MSP Provision – Criteria

- LGHP primary to Medicare if all five criteria met
  1. Beneficiary under age 65
  2. Beneficiary enrolled in Medicare Part A
  3. Beneficiary or family member (any age) employed/current employment status
  4. Beneficiary enrolled in LGHP through employer
  5. Employer employs 100 or more employees

# Criteria One: Beneficiary Under Age 65

- Beneficiary must be under age 65
  - Entitled to Medicare based on disability other than ESRD

- Provider action
  - Verify DOB/age using available eligibility tools
    - HIPAA Eligibility Transaction System (HETS)
    - NGSConnex
    - FISS DDE (to access CWF)

Criteria Two: Beneficiary Enrolled in Part A

- Beneficiary must be enrolled in Medicare Part A

- Provider action
  - Verify beneficiary's Part A effective date in Medicare's records using available eligibility tools
    - Do so even if
      - Rendering services payable under Part B and not Part A
      - Medicare card shows Part A effective date

Beneficiary Not Enrolled in Part A But Enrolled in Part B

- Medicare primary to LGHP for all services if beneficiary not enrolled in Part A

- Submit IP claims only to LGHP
  - Do not submit IP claims to Medicare as primary unless LGHP requires our rejection
    - We reject IP claims for "no Part A entitlement"

- Submit OP claims to Medicare as primary, then to LGHP as secondary
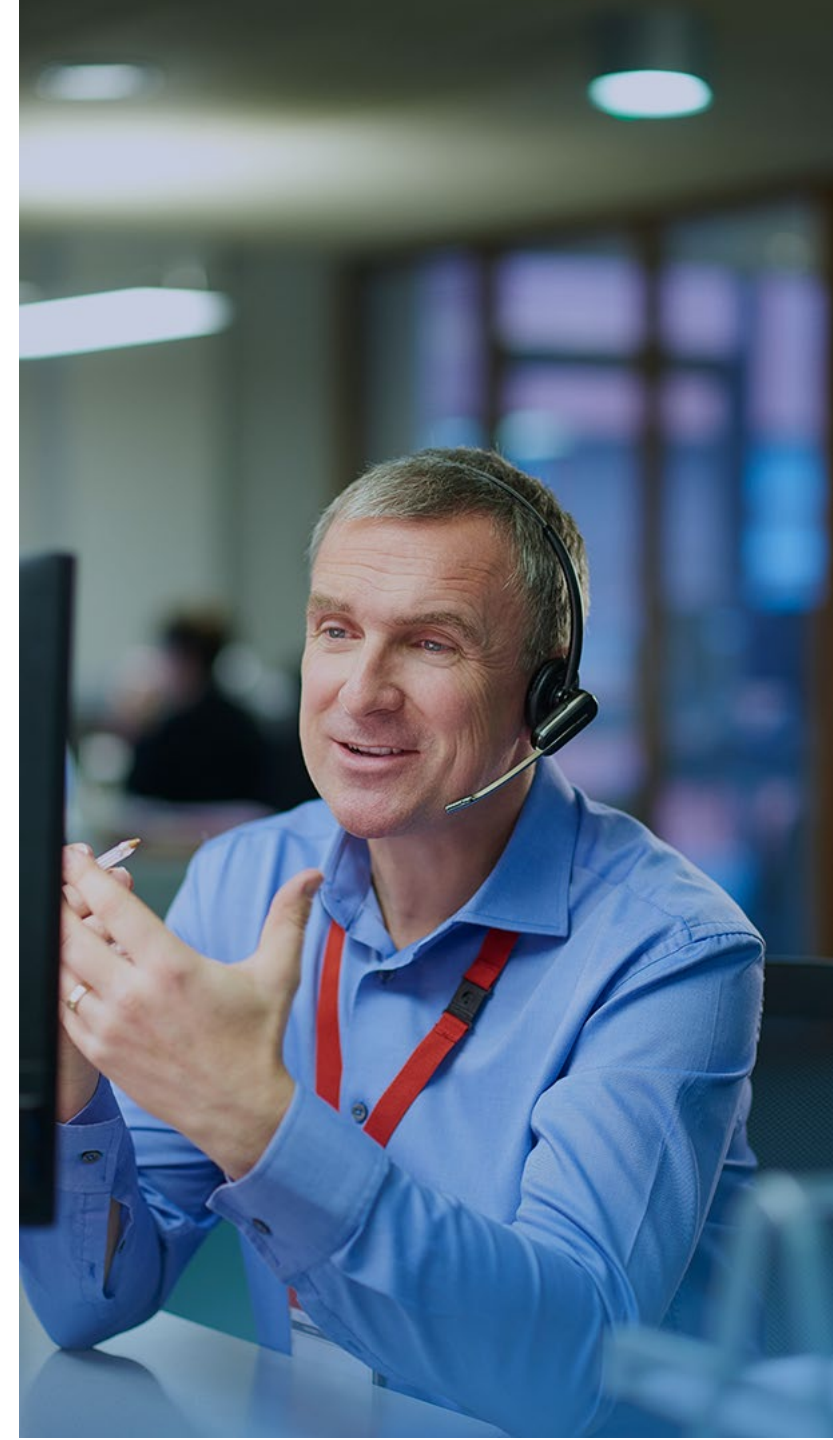
Criteria Three: Beneficiary or Family Member Currently Employed

- Beneficiary or family member (any age) must be currently employed/have current employment status
  - Family member = person enrolled in LGHP based on another person's enrollment
- Provider action
  - Conduct MSP screening process
    - Is beneficiary and/or family member currently employed/have current employment status?

Employer – Defined

- 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
  - Governments of United States, individual states, Puerto Rico, Virgin Islands, Guam, American Samoa, Northern Mariana Islands, District of Columbia and foreign governments included

Employee – Defined

- Individual working for employer or

- Individual, although not actually working for employer, receiving payments from employer subject to Federal Insurance Contributions Act (FICA) taxes or would be subject to FICA taxes except payments exempt under Internal Revenue Code

Current Employment Status – Defined

- Individual has current employment status if:
  - Actively working as employee, employer (including self-employed person), or associated with employer in business relationship; **or**
  - Not actively working and receiving disability benefits from employer for up to six months (subject to FICA taxes); **or**
  - Not actively working **and** meets all following conditions:
    - Retains employment rights in industry
    - Employment not terminated by employer (if it provides coverage) or membership in employee organization not terminated (if it provides coverage)
    - Not receiving disability benefits from employer for more than six months
    - Not receiving Social Security disability benefits and
    - Has employment-based GHP coverage; not COBRA continuation coverage

Did You Know

- A retired person is not considered to be currently employed or to have current employment status.

Current Employment Status – Specific Groups

- CMS provides information on specific groups
  - Members of religious orders
  - Insurance agents
  - Senior Federal judges
  - Volunteers
  - Directors of corporations
  - Individuals receiving delayed compensation payments
  - Leased employees
  - Reemployed retirees and annuitants
  - Coverage for self-employed individuals

Criteria Four: Beneficiary Has GHP Through Employer

- Beneficiary must have GHP through own employer or family member's employer

- Provider action
  - Conduct MSP screening process
    - Is beneficiary and/or family member currently employed/have current employment status?
    - If yes, does employer provide GHP?
      - LGHP = health plan for or contributed to by employer of 100 or more employees

GHP – Defined

- 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
  - Employer
  - Others associated or formerly associated with employer in business relationship or their families

GHP Term Includes

- Self-insured plans
- Plans of governmental entities
- Employee organization plans
  - Union plans
  - Employee health/welfare funds
- Employee pay-all plans
- Individual policies purchased by or through
  - Employee organization
  - Employer/former employer of individual/family member

GHP Term Does Not Include

- Individual/direct-pay plans
  - Not purchased by or through employee organization, employer/former employer of individual/family member
- COBRA continuation coverage
- Coverage under TRICARE
- Plan that doesn't have any employees/former employees as enrollees
  - For self-employed person only

Criteria Five: Employer Employs 100 or More Employees

- Employer, through whom beneficiary has GHP, employs 100 or more employees
  - Employer has 100 or more full- and/or part-time employees on 50% or more of its business days during previous CY
    - GHPs of single employers with 100 or more employees
    - Multi- and multiple-employer GHPs in which at least one employer has 100 or more employees
      - No small employer exception for employers with less than 100

- Provider action
  - Conduct MSP screening process
    - Is beneficiary and/or family member currently employed/have current employment status?
    - If yes, does employer provide GHP?
    - If yes, what is employer size?

100 or More Employee Count – Determined by Employer or GHP

- Met if
  - Single employer has 100 or more employees
  - For multi- or multiple-employer GHPs
    - All employers have 100 or more employees
    - At least one employer has 100 or more employees

- Not met if
  - Single employer has less than 100 employees
  - For multi- or multiple-employer GHPs
    - All employers have less than 100 employees

Employer Size Changes

- If employer meets 100 or more employee count any time in a current year
  - It must provide coverage primary to Medicare during following year
- If employer does not meet 100 or more employee count in a particular year
  - It may offer coverage secondary to Medicare during following year

What Should Occur When Employee Receives Medicare Based on Disability

- Employee
  - Under age 65 and about to receive Medicare based on disability
  - Employed for employer that meets Disabled MSP provision criteria
  - Plans to continue working

- Employer offers employee option of
  - Remaining in LGHP which would then be primary
  - Opting out of LGHP which would make Medicare primary
    - Employer cannot provide supplemental plan for Medicare covered services
   - Beneficiary can purchase direct-pay supplemental plan

Medicare Primary for Disabled Beneficiary Under Age 65 When

- Beneficiary not enrolled in Medicare Part A

- Beneficiary or family member
  - Not currently employed/no current employment status
    - May or may not have retirement or COBRA plan
  - Currently employed but no LGHP
    - Rejected LGHP; purchased direct-pay plan
  - Employed by single employer with less than 100 employees
  - Has multi- or multiple-employer GHP
    - But all employers have less than 100 employees

Disabled – Submitting Claims

Report Beneficiary's Current MSP Status on Claim

- When submitting Medicare claims, CMS expects providers to
  - Use billing information you collected during MSP screening process with beneficiary
  - Report applicable billing codes on claim(s) to represent beneficiary's current MSP status
- Maintain documentation that supports billing codes you report
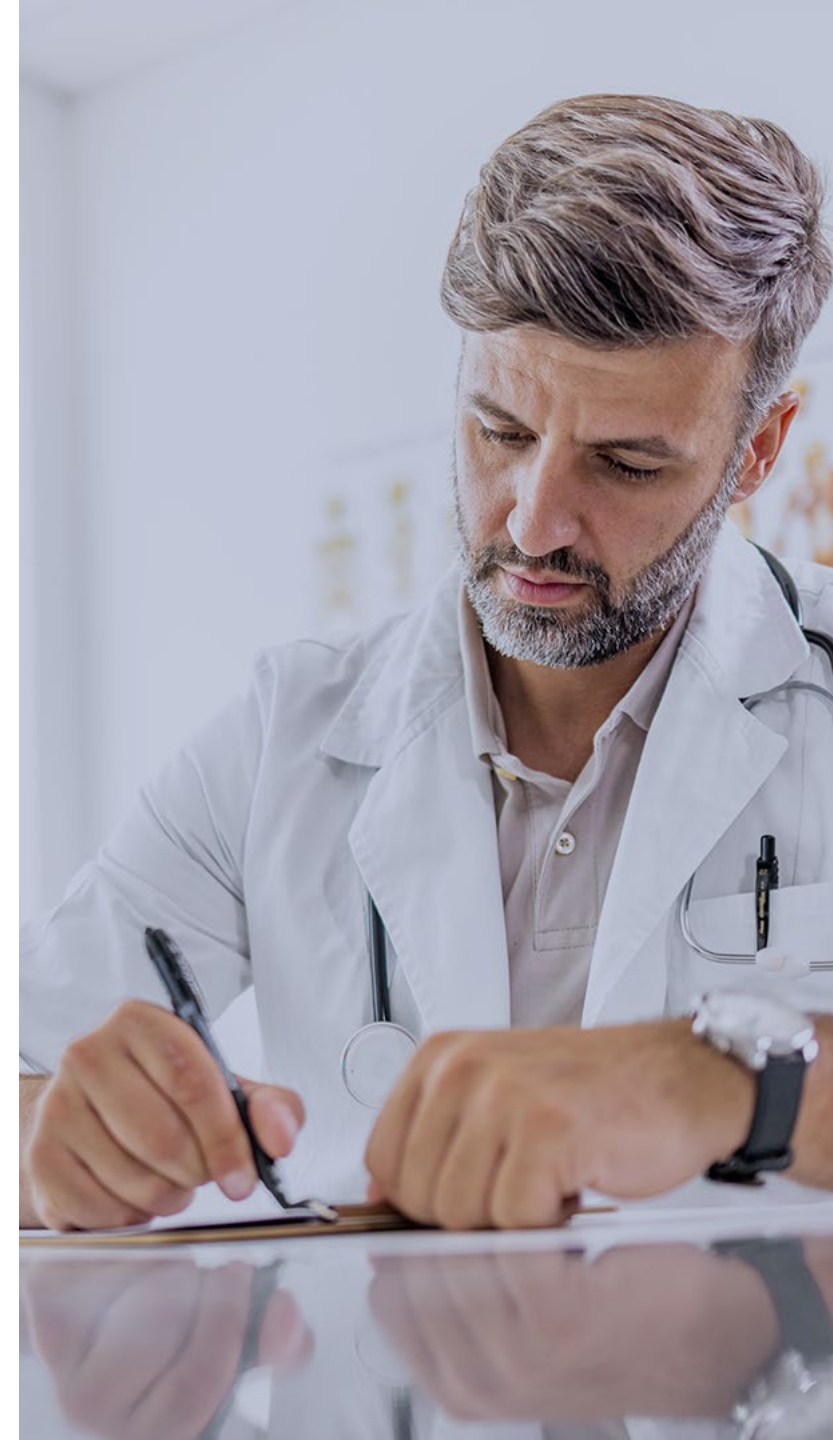
Submitting Claims Beneficiaries Under Age 65 – LGHP Primary

- If all Disabled MSP provision criteria met
  - Submit claim to LGHP as primary
  - Submit claim to Medicare secondary or conditionally, as applicable, once you receive response
    - MSP VC = 43

- References
  - [Prepare and Submit a Medicare Secondary Payer Claim](#)
  - [Prepare and Submit an MSP Conditional Claim](#)

Processing Your MSP or Conditional Claims

- Upon receipt of incoming MSP or conditional claim, we check for **matching MSP record in CWF**
  - If present, we process claim
  - If not present, we set up record, ask BCRC to validate it, then we process claim
    - Note: If record set up unsuccessful, we ask BCRC to set up and validate record, then we process claim once record present in CWF
- BCRC
  - Reviews/investigates MSP information
  - Validates MSP record we set up or sets up/validates MSP record
- Reference
  - [Set Up a Beneficiary's Medicare Secondary Payer Record](#)

Submitting Claims For Beneficiaries Age 65 or Older – Medicare Primary

- If one or more Working Aged MSP provision criteria not met
  - Submit claim to us as primary with explanatory coding indicating reason
    - CCs
      - CC 09 = Neither beneficiary nor spouse employed
      - CC 11 = Beneficiary and/or family member employed but no LGHP
      - CC 29 = Beneficiary and/or family member employed, LGHP through employer but secondary to Medicare because employer has less than 100 employees
    - OCs and dates
      - OC 18 and beneficiary's retirement date
      - OC 19 and spouse's retirement date
    - Remarks to support use of CCs and/or OCs (not required; may be helpful)
- References
  - Collect and Report Retirement Dates on Medicare Claims
  - Prevent an MSP Rejection on a Medicare Primary Claim

Processing Your Medicare Primary Claims

- When incoming claim contains explanatory coding, we can
  - Send information on claim to BCRC, when applicable
  - Process claim or, in some cases, wait for BCRC to correct MSP record and then process claim
- BCRC
  - Reviews/investigates information
  - Corrects MSP record if they receive responses to their investigation
- Reference
  - [Correct a Beneficiary's MSP Record](#)

No Explanatory Claim Coding to Indicate Medicare Primary

- Provider
  - May not contact BCRC in this circumstance
  - May refer beneficiary or other party to BCRC
  - Must wait until MSP record in CWF corrected before submitting Medicare primary claim
- BCRC:
  - Toll-free lines
    - 855-798-2627
    - TTY/TDD: 855-797-2627 for hearing and speech impaired
  - Available
    - Monday–Friday, 8:00 a.m.–8:00 p.m., ET, except holidays

Scenarios and Polling Questions

Assumptions for Scenarios 1–5

- Your facility verified
  - All beneficiaries under age 65
  - All beneficiaries enrolled in Medicare Parts A and B
  - No multi- or multiple-employer GHP involvement

Scenario and Polling Question 1

- Beneficiary
  - Age 60
  - Currently employed
  - No spouse
  - LGHP through current employer
    - Single employer with 125 employees
- Which plan is primary for beneficiary?
  - Medicare
  - LGHP

Scenario and Polling Question 2

- Beneficiary
  - Age 46
  - Currently employed
  - Spouse retired 1/1/2024
  - LGHP through current employer
    - Single employer with 90 employees
- Which plan is primary for beneficiary?
  - Medicare
  - LGHP

# Scenario and Polling Question 3

- Beneficiary
  - Age 57
  - Retired 5/1/2021
  - Spouse currently employed
  - LGHP through spouse's current employer
    - Single employer with 111 employees
- Which plan is primary for beneficiary?
  - Medicare
  - LGHP

Scenario and Polling Question 4

- Beneficiary
  - Age 59
  - Retired 9/1/2023
  - Spouse currently employed
  - LGHP through spouse's current employer
    - Single employer with 97 employees
- Which plan is primary for beneficiary?
  - Medicare
  - LGHP

Scenario and Polling Question 5

- Beneficiary
  - Age 23
  - Not currently employed (never worked)
  - No spouse
  - LGHP through mother's current employer
    - Single employer with 140 employees
- Which plan is primary for beneficiary?
  - Medicare
  - LGHP

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
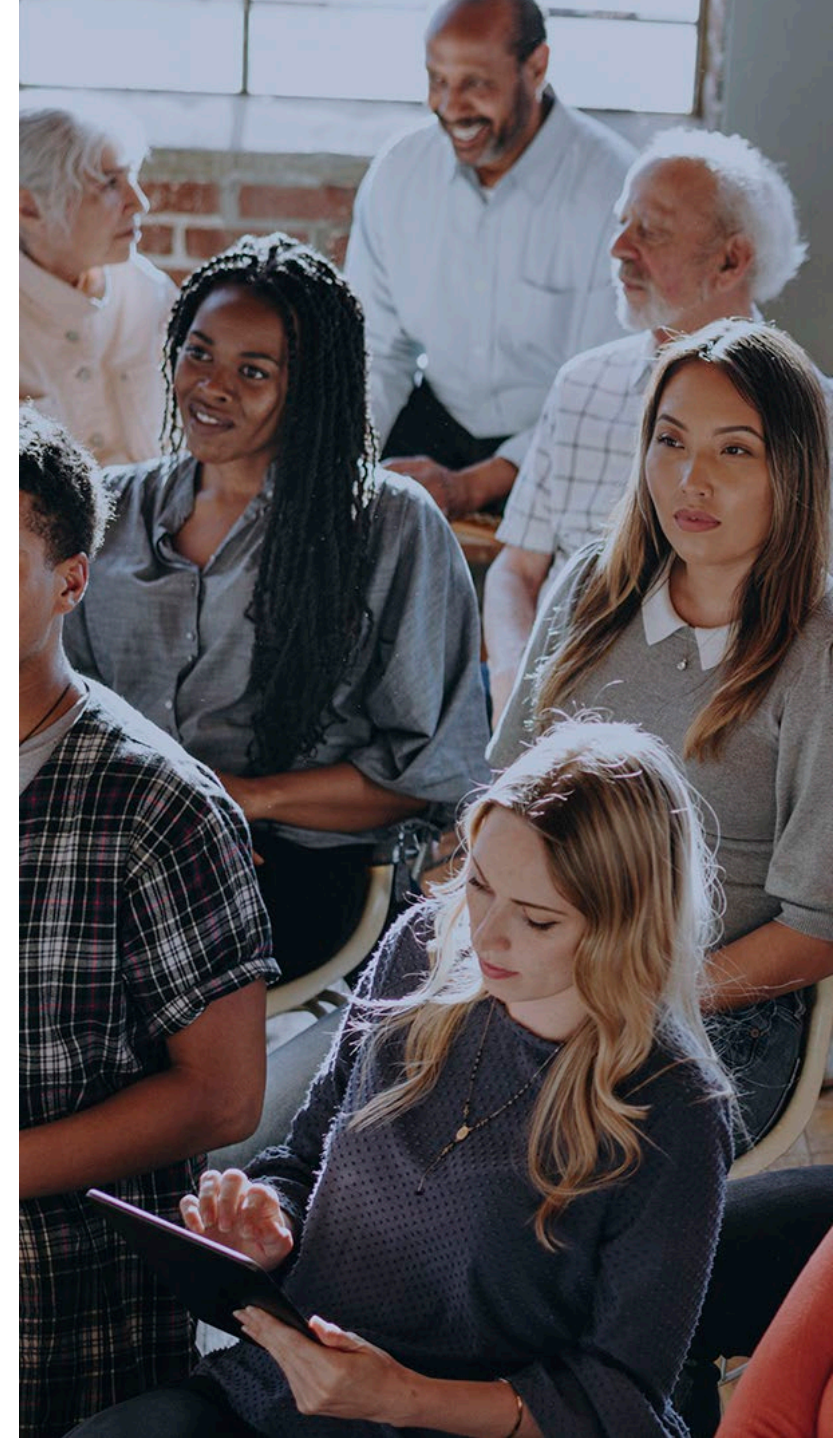
References and Resources

National Government Services

- [Acronym Search](#)
- [Contact Us](#)
- [Events](#)
- [FAQs](#)
- *[FISS DDE Provider Online Guide](#)*
- [NGSConnex](#)

National Government Services MSP Articles

- What is Medicare Secondary Payer?
- Identify the Proper Order of Payers for a Beneficiary's Services
- Set Up a Beneficiary's Medicare Secondary Payer Record
- Correct a Beneficiary's MSP Record
- Prevent an MSP Rejection on a Medicare Primary Claim
- Collect and Report Retirement Dates on Medicare Claims
- Prepare and Submit a Medicare Secondary Payer Claim
- Prepare and Submit an MSP Conditional Claim
- Correct or Adjust a Claim Due to an MSP-Related Issue
- Determine if Medicare will Make an MSP Payment
- Determine Beneficiary Responsibility on an MSP Claim

CMS' MSP References and Resources

- BCRC Contact

- CBT Course: MSP Overview

- CBT Course: Medicare Secondary Payer Disability

- HIPAA Eligibility Transaction System (HETS)

- How Medicare Works With Other Insurance (for beneficiaries)

- MLN® Booklet: *Medicare Secondary Payer*

- MLN® Fact Sheet: *Medicare Secondary Payer: Don't Deny Services & Bill Correctly*

CMS' MSP References and Resources – Continued

- CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*
  - Chapter 1, Sections
    - 10, Definitions
    - 20.3, Disabled Beneficiaries Covered Under a Large Group Health Plan (LGHP)
  - Chapter 2, Sections
    - 10.5, Rules Defining Employees Covered by GHPs and LGHPs
    - 10.5.1, Clarification of Current Employment Status for Specific Groups
    - 30, MSP Provision for Disabled Beneficiaries
    - 30.2, 100 or More Employees Requirement
  - Chapter 3, Sections
    - 20, Obtain Information From Patient or Representative at Admission or Start of Care
    - 20.1, General Policy
    - 20.2.1, Model Admission Questions to Ask Medicare Beneficiaries

CMS' Coordination of Benefits & Recovery

- Overview
  - What's New
  - Medicare Secondary Payer
  - End-Stage Renal Disease (ESRD)
  - Coordination of Benefits
  - Group Health Plan Recovery
  - Non-Group Health Plan Recovery
  - Contacts

- Attorney Services
  - Reporting a Case
- Beneficiary services
  - Reporting Other Health Insurance
- Employer Services
- Insurer Services
- Provider Services
  - Your Billing Responsibilities

Questions?

Thank you!

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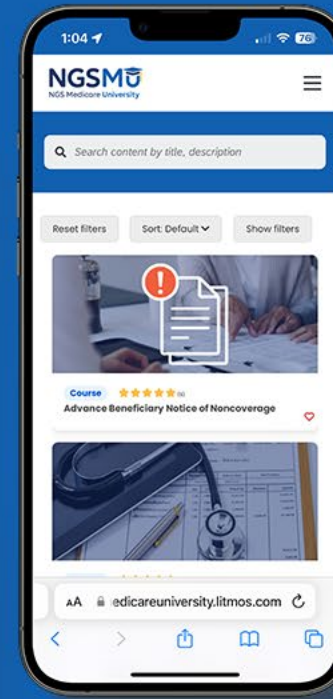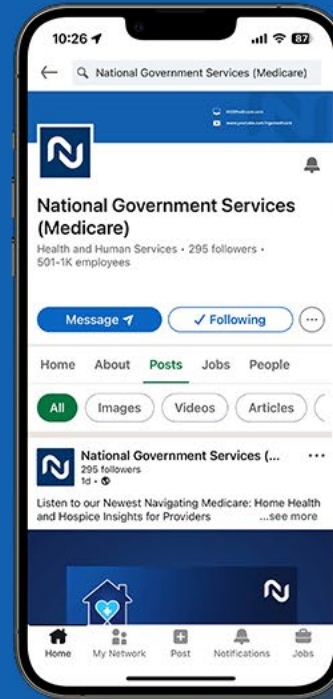
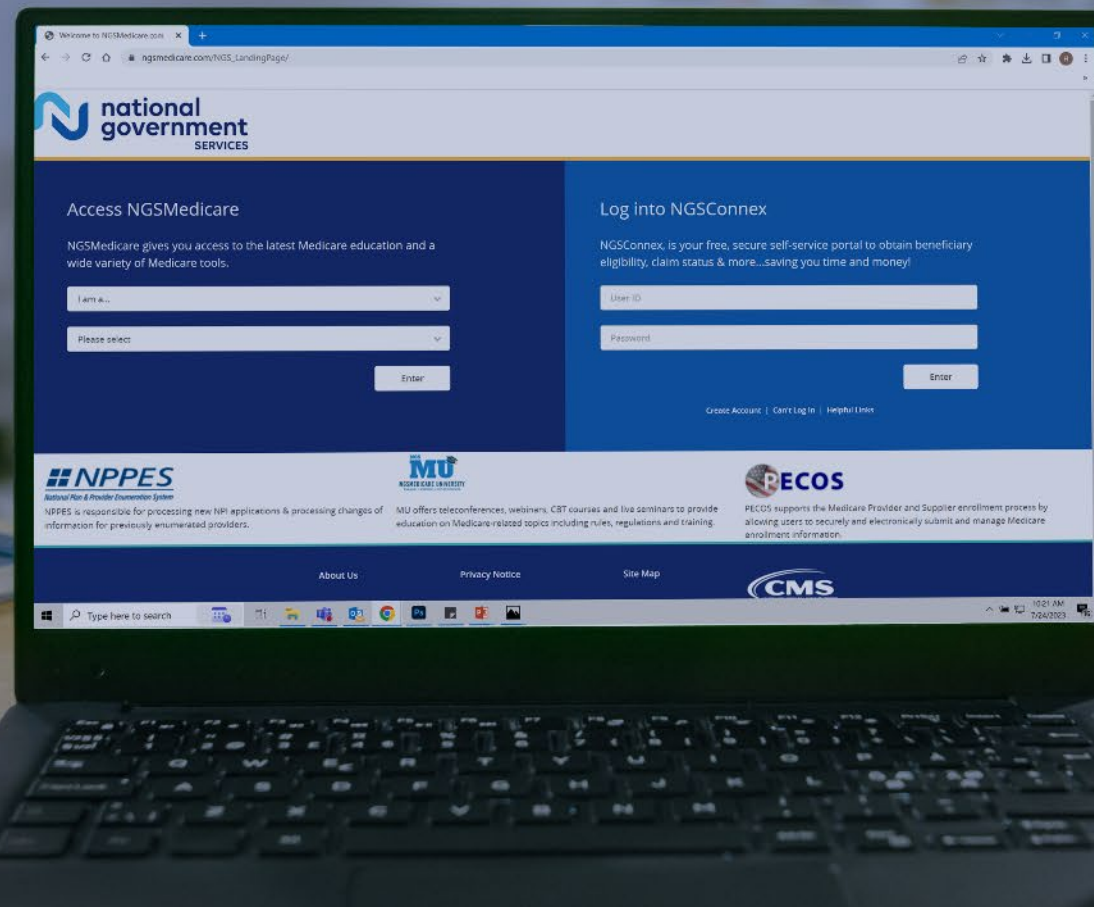**YouTube Channel**
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