

## MEDICARE AS A SECONDARY PAYER AND COORDINATION OF BENEFITS

This section covers:

- The Medicare Secondary Payer (MSP) Rule
- The Coordination of Benefits (COB) Program
- Where to Learn More

### THE MEDICARE SECONDARY PAYER (MSP) RULE

When does Medicare pay second? Medicare is the secondary payer where the law requires other insurers to pay first. Sometimes, Medicare may not pay at all if the other insurer pays more than Medicare would pay for the same service. When a person has both Medicare and coverage through one of the insurance types listed below, the Medicare Secondary Payer (MSP) rule applies and Medicare pays second:

#### Employer Group Health Plans (EGHPs)

In these plans, Medicare beneficiaries are insured under an employer plan for current employees (not retirees) and their dependents. This usually occurs when:

- Persons 65 and older or their spouses continue to work and have health insurance through an employer plan. The SSA and Medicare refer to them as the “working aged.” Employers with 20 or more employees must offer the same health plan to older workers that it makes available to younger workers. Often older workers will have Medicare Part A (because it has no monthly premium) and EGHP coverage.
- Persons with disabilities are covered under a spouse’s health insurance plan. Employers with 100 or more employees must include spouses with disabilities in their health plans.
- Employer and union plans for retirees are not a concern here. By the terms of their contracts, they pay second to Medicare.

#### Worker’s Compensation Insurance

- Federal law prohibits Medicare from paying on a claim that Worker’s Compensation insurance covers.
- Medicare rules treat the services that the federal Black Lung Program to coal miners as a type of workers’ compensation insurance. Medicare, however, is the primary payer for conditions not related to black lung disease.

## Automobile and Liability Insurance

- Medicare pays second when automobile or liability insurance pays for medical care related to an accident
- With no-fault insurance, beneficiaries must take the needed steps to obtain any payments that the insurer can reasonably be expected to make. Normally Medicare does not pay until the beneficiary has exhausted all remedies to secure payment from the no-fault insurer.
- Medicare can make “conditional payments” if court action or settlement negotiations will delay the insurance payment by more than 120 days from the date of the accident. But the beneficiary or provider who receives the payments must later reimburse Medicare.

## Claims Procedures with the MSP Rule

Providers should submit claims first to the:

- Medicare payment contractor (Carrier, Fiscal Intermediary, or A/B MAC) when Medicare is the primary payer, as with retiree group insurance plans.
- Employer Group Health Plan when Medicare is the secondary payer.

The MSP rule does not apply when a beneficiary has insurance that by contract or law pays second to Medicare. Medicare pays first when coordinating with these types of insurance:

- Medicare Supplement Policies: The MSP rule does not apply to Medicare Supplement, or Medigap, insurance policies. By federal and state law, these policies fill the cost-sharing gaps that remain after Medicare pays.
- Retiree Group Insurance: Employer and union group plans for retirees pay second to Medicare. By contract, many of these policies are designed to wrap around or complement Medicare coverage.

*Note:* You will find that Medicare uses the abbreviation MSP in two ways. One involves the Medicare Secondary Payer rule and Coordination of Benefit procedures. The other is for the Medicare Savings Program that helps some low-income beneficiaries pay some of the costs of Medicare (including the Part B premium).

Some people wonder if Medicare works as a supplement to employer and union group plans for older workers. The answer is, “Not necessarily.” Medicare, as a secondary payer, coordinates payments with the employer plan. If the other plan pays more than Medicare’s approved amount for a service, Medicare will pay nothing more. If the other plan’s payments are lower than Medicare’s, Medicare may pay part of the claim. But Medicare can be the primary payer if the employer plan does not cover a hospital stay, for example, after the beneficiary reaches the group plan’s annual coverage cap, or payment limit.

- TRICARE for Life (TFL): By federal law, this program for military retirees pays second to Medicare, filling many of the Original Medicare program's cost and coverage gaps.
- Medicaid Benefits: By federal law, Medicaid is the payer of last resort. If a Medicare beneficiary also has Medicaid benefits, Medicare pays first.

## THE COORDINATION OF BENEFITS (COB) PROGRAM

Federal law requires CMS to take steps to ensure that the right insurer pays on health insurance claims and that Medicare pays only when it is supposed to do so. To meet that goal, CMS works with a national Coordination of Benefits (COB) Contractor to support and oversee the collection and management of information relating to other insurance coverage for Medicare beneficiaries. The COB Contractor sends and gathers information from questionnaires to help CMS and its payment contractors decide if Medicare is a secondary payer.

CMS's payment contractors (Carriers, Intermediaries, and A/B MAC) also monitor claims to see if another insurer should pay first. When it seems as though another insurer may be involved in the case (as with a car accident), the payment contractors send an "MSP claims development letter" to beneficiaries to get more information. Based on this information, Medicare will coordinate its payment of benefits with other insurance plans under federal law.

There are two types of forms that the COB Contractor uses to investigate a beneficiary's insurance status and to learn if Medicare should pay first, second, or not at all.

### Initial Enrollment Questionnaires (IEQ)

About three months before a person becomes eligible for Medicare, Medicare sends an IEQ. There are five variations of the IEQ for different Medicare beneficiary groups (e.g., people 65 and older, people with disabilities, etc.) The four-page form asks the beneficiary about other health insurance coverage to determine if Medicare will pay second to an Employer Group Health Plan for current workers (see Appendix G).

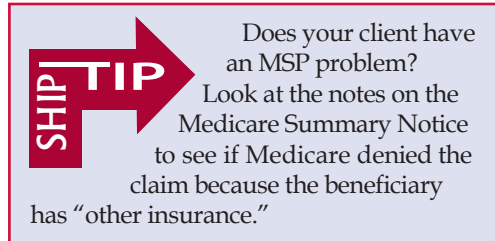
### Medicare Secondary Claim Development Questionnaires

This form asks if the beneficiary has benefits through employer coverage, worker's compensation, or under automobile no-fault insurance. It seeks specific information about the insurance carrier (see Appendix H).

## The COB Contractor and MSP Mistakes

Mistakes on the IEQ or Secondary Claim Development forms may cause Medicare to conclude that it is a secondary payer. This can delay Medicare payments indefinitely while hospital and doctor bills pile up. Medicare may decide that it is the secondary payer and deny payments on claims when:

- Beneficiaries do not notify Medicare that they have left an EGHP because their spouse left the company, retired, or otherwise dropped the coverage.
- Billing staff checks the wrong box on a claim form.
- Beneficiaries do not return the IEQ or accident coverage questionnaire to Medicare.
- The Medicare FI or Carrier makes a mistake when entering data to the record.



How do you correct MSP mistakes? With your client, contact Medicare’s Coordination of Benefits (COB) Contractor (Group Health Incorporated) to:

- Report employment changes, or any other insurance coverage information that may affect Medicare’s status as a primary payer.
- Report a liability, auto/no-fault, or worker’s compensation case.
- Ask questions about MSP questionnaires and development letters.
- Medicare’s COB Contractor is located in Detroit. Call toll free at 1-800-999-1118 between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday, except for major holidays. Send written correspondence to: Medicare Coordination of Benefits; P.O. Box 33847, Detroit, MI 48232.

Encourage your clients to respond promptly to Medicare’s IEQ and MSP development letters. Take time to ensure that your clients know that Medicare is trying to learn if another insurance plan should pay first. If your client (or client’s spouse) is working and reports coverage under an employer plan, it’s likely that Medicare will decide that Medicare is the secondary payer.

Your clients must contact the COB Contractor to correct MSP mistakes on their records. While 1-800-MEDICARE or Medicare payment contractors may be able to explain the reason for a claim denial, they cannot correct the record to show that an EGHP is no longer the primary payer. The COB Contractor does that.

## WHERE TO LEARN MORE

For information on the Medicare Secondary Payer program and Coordination of Benefits available at <http://www.medicare.gov>, see:

- *Medicare and Other Health Benefits: Your Guide to Who Pays First*, a CMS booklet that explains how Medicare pays with other types of insurance.

For more technical and detailed information, also visit these CMS websites:

- Medicare's "Coordination of Benefits" website has information for beneficiaries, employers, and other insurers at <http://www.chm.hhs.gov/medicare/cob/>.
- *Medicare's Secondary Payer Manual*, CMS Publication Number 100-05, is CMS's policy manual on COB, at <http://www.cms.hhs.gov/Manuals/IOM/list.asp>.

