

LDI
CONFERENCE
2022

Register for
LDI Conference 2022

Higgins Hotel New Orleans
March 7th & 8th

Medicare Secondary Payer Compliance

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Special Thanks

Hon. Jim Donelon

Crystal M. Stutes

Thomas Travis

Joni Chustz



LDI

Louisiana
Department of
Insurance

Agenda

- An introduction to Medicare.
- The intersection between Medicare and other insurance.
- The Medicare Secondary Payer Act.
- MSP Act Amendments.
- Mandatory Insurer Reporting.
- Conditional Payments Reimbursement.
- Future Medical Considerations.

Medicare

- Federal health insurance for aged and disabled.
- 65 million beneficiaries currently enrolled.
 - 56 million older than age 65
 - 9 million disabled under age 65
- Total income was \$899.9 billion.
- Total expenditure was \$925.8 billion.
- Assets in trust fund decreased to \$277.3 billion.
- Estimated depletion date of trust fund is 2026.

Medicare and Other Insurance

- Medicare beneficiary is insured by Group Health Plan (GHP)
 - GHP should have paid for medical bills, but Medicare paid instead.
- Medicare beneficiary has an auto accident, or a work comp accident, insured by Non-Group Health Plan (NGHP)
 - NGHP should have paid for medical bills associated with claim, but Medicare paid instead.

Medicare Secondary Payer Act

- 42 USC Section 1395y(b)(2).
- 42 CFR Section 411.
- Signed into law by President Carter in Dec 1980.
 - Payment may not be made with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made, under a workmen's compensation law or plan or under an automobile or liability insurance policy or plan (including a self-insured plan) or under no fault insurance.

MSP Act Amendments

- The Medicare Secondary Payer Act of 1980 at 42 USC Section 1395y(b)(2).
- The Medicare Prescription, Improvement, and Modernization Act of 2003 (MPIMA) added prescriptions to MSP Act.
- The Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) added mandatory insurer reporting.
- The Strengthening Medicare and Repaying Taxpayers Act of 2012 (SMART) brought pre-settlement reimbursement.
- The Provide Accurate Information Directly Act of 2020 (PAID) made MAP/PDP information available.

Mandatory Insurer Reporting

- 42 USC Section 1395y(b)(8).
- Liability, No-Fault, Work Comp claims.
- Determine eligibility for Medicare (Query).
 - Last Name, First Name, DOB, SS#, Gender
- Must report if ORM, if paid more than \$750.
- Submit information on claim (Reporting).
 - DOA, ICD Codes, Settlement date/amount
- \$1,000 per day per file civil money penalty.

Conditional Payments Reimbursement

- 42 USC Section 1395y(b)(2)(B). 42 CFR 411.21
- Primary payers must reimburse Medicare.
- Beneficiaries, physicians, attorneys, hospitals, state agencies, private insurers.
- Responsibility demonstrated by settlement, judgment, award, or payment.
- Direct right of action, subrogation, intervention.
- Double damages.

Future Medical Care and Medicare

- 42 CFR 411.46 in work comp claims; no regulations in liability or no-fault claims.
- Primary payer pays post settlement. Medicare remains secondary payer post settlement.
- Beneficiary allocates funds out of settlement to pay for future medical care related to claim.
- Medicare may deny payment of bill. If it makes payment, entitled to reimbursement.

Take Away

- Medicare population continues to grow.
- Medicare is a secondary payer to other insurance.
- Whether GHP/NGHP coverage, Medicare Secondary Payer law applies.
 - Mandatory Insurer Reporting
 - Conditional Payments Reimbursement
 - Medicare Remains Secondary Payer Post Settlement

THANK YOU!

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