Medicare Secondary Payer

The Fundamentals

5/4/2023

Disclaimer

National Government Services, Inc. has produced this material as an informational reference for providers furnishing services in our contract jurisdiction. National Government Services employees, agents, and staff make no representation, warranty, or guarantee that this compilation of Medicare information is error-free and will bear no responsibility or liability for the results or consequences of the use of this material. Although every reasonable effort has been made to assure the accuracy of the information within these pages at the time of publication, the Medicare Program is constantly changing, and it is the responsibility of each provider to remain abreast of the Medicare Program requirements. Any regulations, policies and/or guidelines cited in this publication are subject to change without further notice. Current Medicare regulations can be found on the CMS website.

Recording

Attendees/providers are never permitted to record (tape record or any other method) our educational events. This applies to webinars, teleconferences, live events and any other type of National Government Services educational events.

Objectives

Introduce Part A providers to MSP fundamentals

Provide high-level overview of MSP and your MSP-related responsibilities

MSP webinar series – webinar 1

Today's Presenters

- Provider Outreach and Education Consultants

  - Christine Janiszcak
  - Jan Wood

Agenda

2023 MSP education

MSP responsibilities and overview

MSP provision review

Identifying primary payers

Contacting BCRC

Submitting Medicare primary claims

Agenda

Submitting claims to primary payers

Submitting MSP and conditional claims

Payment of and beneficiary responsibility for MSP claims

MSP resources

Questions and answers

national government SERVICES

X NGS PROVIDER EXPERIENCE
Innovation | Education | Collaboration

NGSMU

MSP Education for Part A, HH&H and FQHC/RHC Providers in 2023

MSP Webinar Series

In 2023, we will conduct a series of 17 different MSP webinars; please check our Events Calendar often and attend as many as you can!

MSP Let's Chat Webinars

In 2023, we will conduct a MSP Let's Chat webinar once a month; join us to ask your MSP-related question!

MSP CBTs and More!

In 2023, we will make our MSP CBTs available in Medicare University as well as conduct additional MSP education throughout the year!

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

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

MSP 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
  - References: CMS IOM Publication 100-05, *Medicare Secondary Payer Manual,* Chapter 1, Section 10 (review definition of "current employment status") and Chapter 2, Section 10.5

Working Aged with EGHP Provision

- 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
  - 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 20.1 and Chapter 2, Section 10

Disabled with LGHP Provision

- 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
  - 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 20.3 and Chapter 2, Section 30

ESRD With EGHP Provision

- 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

- References: CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 1, Section 20.2 and 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
  - 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 20.2 and Chapter 2, Sections 20.1.3 and 20.1.4

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

- 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
- 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

- References:
  - CMS IOM Publications
    - ✓ 100-02, *Medicare Benefit Policy Manual,* Chapter 16, Section 150
    - ✓ 100-05, *Medicare Secondary Payer Manual,* Chapter 1, Section 20.4 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)

- 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 20.5 and Chapter 2, Section 60 and Chapter 3, Section 30.2

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

- References:
  - CMS IOM Publications
    - ✓ 100-02, *Medicare Benefit Policy Manual,* Chapter 16, Section 150
    - ✓ 100-05, *Medicare Secondary Payer Manual,* Chapter 1, Section 20.6 and Chapter 2, Section 40 and Chapter 3, Section 30.2.1.2

Identifying Primary Payers

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 Records in CWF – Value Codes and Primary Payer Codes for MSP Provisions

MSP VC	MSP Provision/Medicare Exclusion	Payer Code
12	Working aged, age 65 and over, EGHP, 20 or more employees	A
13	ESRD with EGHP in 30-month coordination period	B
14	No-Fault (automobile and other types including medical-payment) or Set-Aside	D or T
15	Workers' Compensation or Set-Aside	E or W
16	Public Health Services	F
41	Federal Black Lung Program	H
43	Disabled, under age 65, LGHP, 100 or more employees	G
47	Liability Insurance or Set-Aside	L or S

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

- Collect additional information for billing purposes such as retirement date(s)

CMS Model MSP Questionnaire

CMS' model questionnaire has **three parts**

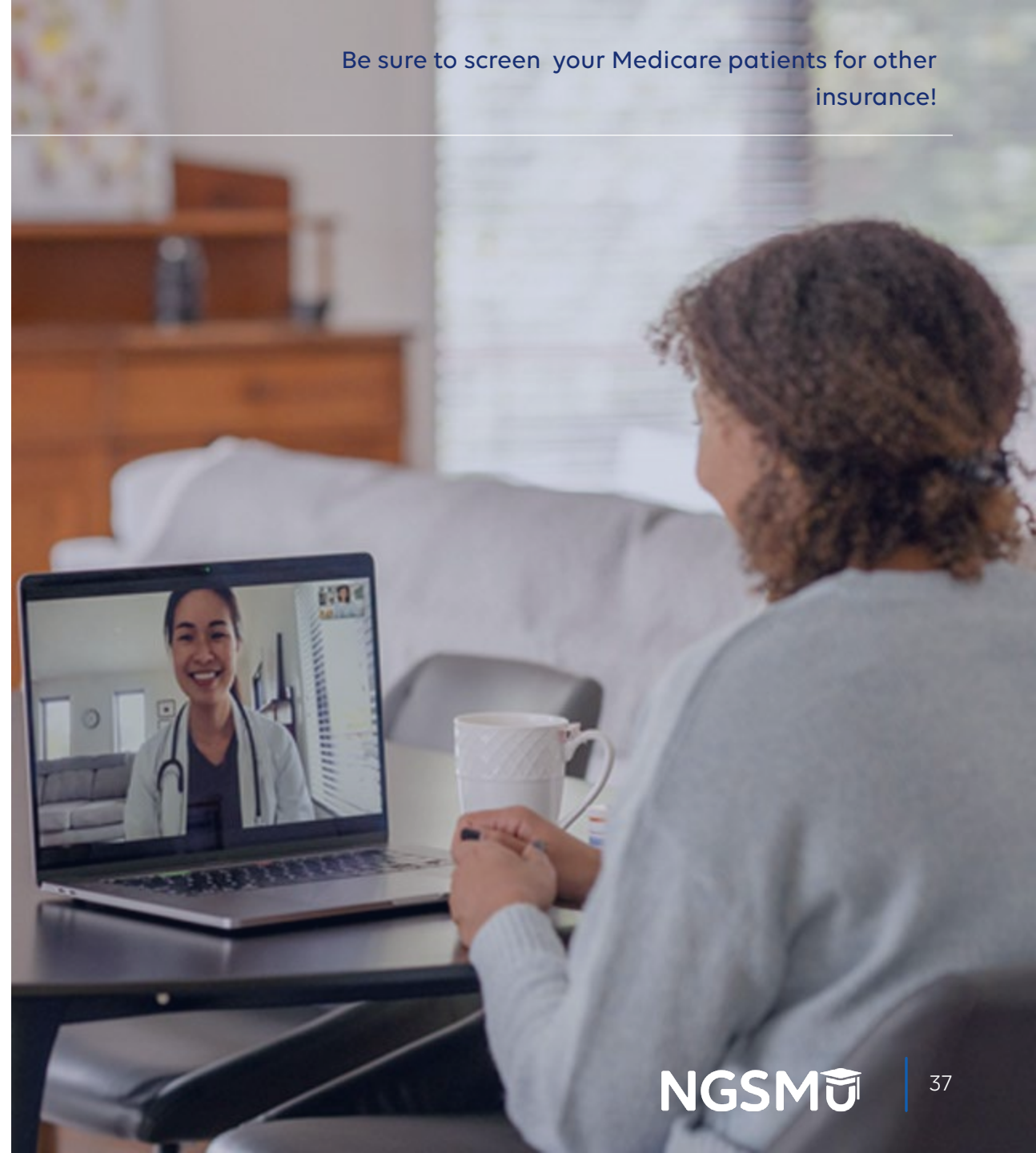## Part I

Black Lung, WC, No-Fault (automobile and other types) and Liability

Part II

Medicare entitlement (age and disability) and GHPs

Part III

Medicare entitlement (ESRD) and dual entitlement (age 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 Per Determination You Make – Medicare is Primary

Submit a Medicare primary claim
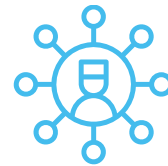
Submit Claims Per Determination You Make – Another Payer is Primary

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)

Submit Claims Per Determination You Make – 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 (1)

- 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 (2)

- 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 (3)

- 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 (1)

- 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 (2)

- 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

MSP 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

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

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**
  - 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 <u>our website</u>
  - 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 Claims

There are **three options** for submitting your MSP, conditional and Medicare tertiary claims
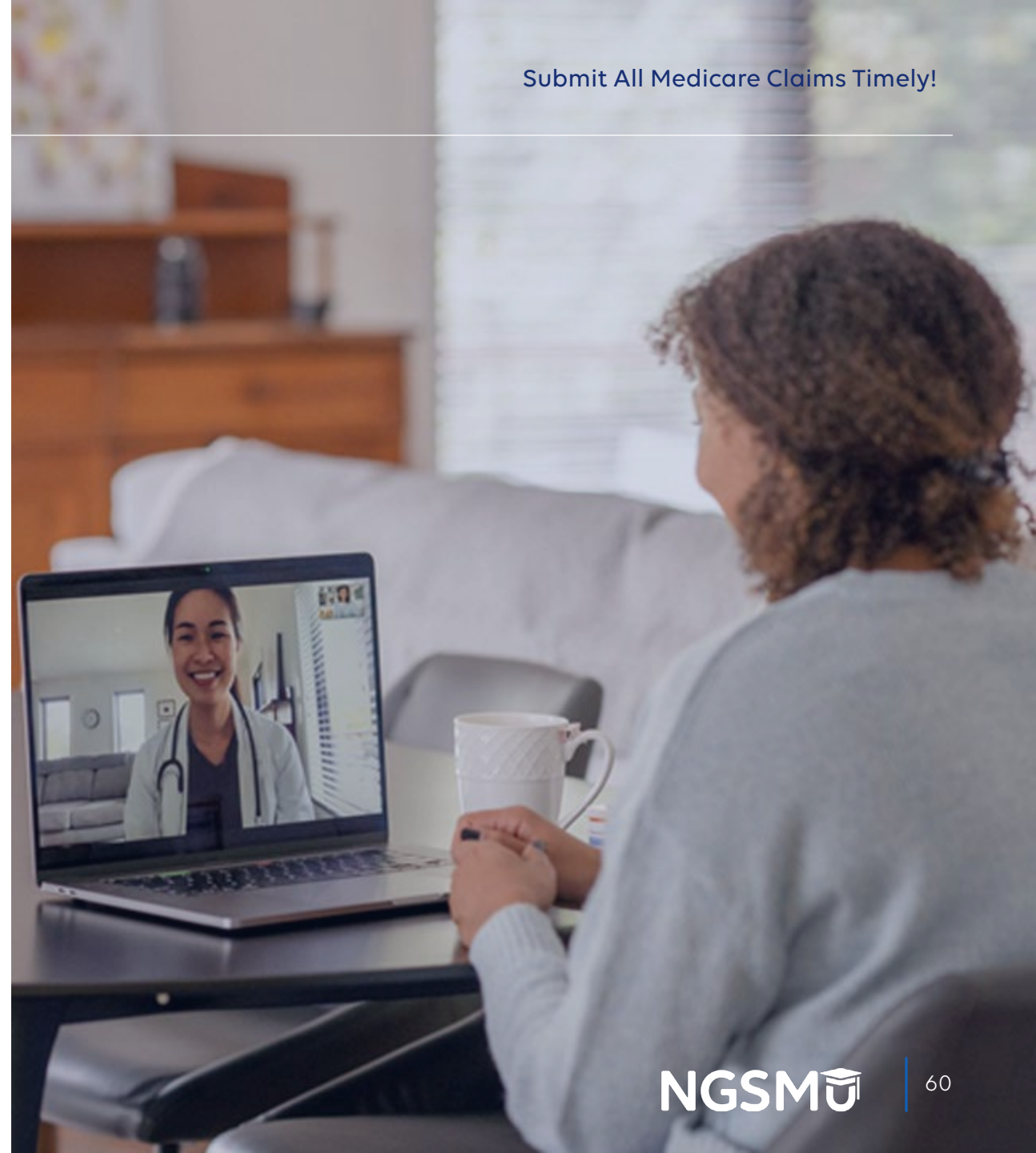
837I Claim

Electronically via 837I claim

FISS DDE

Electronically via FISS DDE

Hard-copy

(UB-04/CMS-1450 claim form) to our Claims Department (**Note:** Approved ASCA waiver required)

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 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

- 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

Questions?

Thank you! A follow-up email will be sent to attendees with the Medicare University Course Code.

Your Feedback Matters

- We rely on your feedback
  - When you visit our [events page](#), please click on the banner and share your thoughts with us about the education we provide you.
  - The survey only takes a few minutes of your time, and lets us know:
    - ✓ What we are doing right
    - ✓ What education you are looking for
    - ✓ Educational topics you would like to see continued
    - ✓ Where we can improve

Click Here to Share Your Education Thoughts With Us

national government SERVICES

NGSMU

Your Feedback Matters

- A link to a survey for this webinar is available in the GoToWebinar Chat Box.
  - Only takes a few minutes to complete!
  - We read all of your comments!
  - Help us help you! Let us know how we are doing!
  - If you have positive comments, let us know so we can continue providing you with the education you need!

Copy/Paste URL to your Internet Browser

Open/Complete Survey

Share your feedback with us!

Thank you for your feedback!
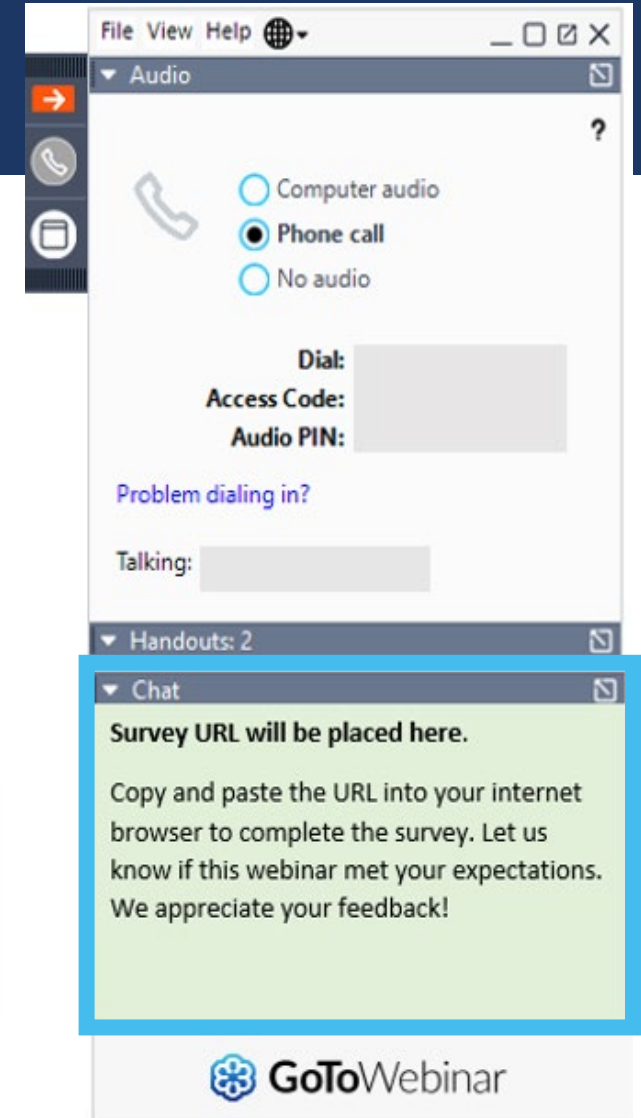
follow us on twitter

🐦 **@ngsmedicare**

medicare **mobile**

Text NEWS to 37702; Text GAMES to 37702

▶ youtube.com/ngsmedicare

national government SERVICES

NGSMU