national government SERVICES

NGS PROVIDER EXPERIENCE
Innovation | Education | Collaboration

Part A Fall Virtual Conference: Ending on a Strong Medicare Note

Medicare Secondary Payer: A Review of the Workers' Compensation Provision

11/1/2023

Closed Captioning: *Auto-generated closed captioning is enabled in this course and is at best 70-90% accurate. Words prone to error include specialized terminology, proper names and acronyms.*

NGSMU
NGS Medicare University
Meaningful | Informative | Simplified

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

Today's Presenters

Provider Outreach and Education Consultants

- Christine Janiszcak
- Jan Wood

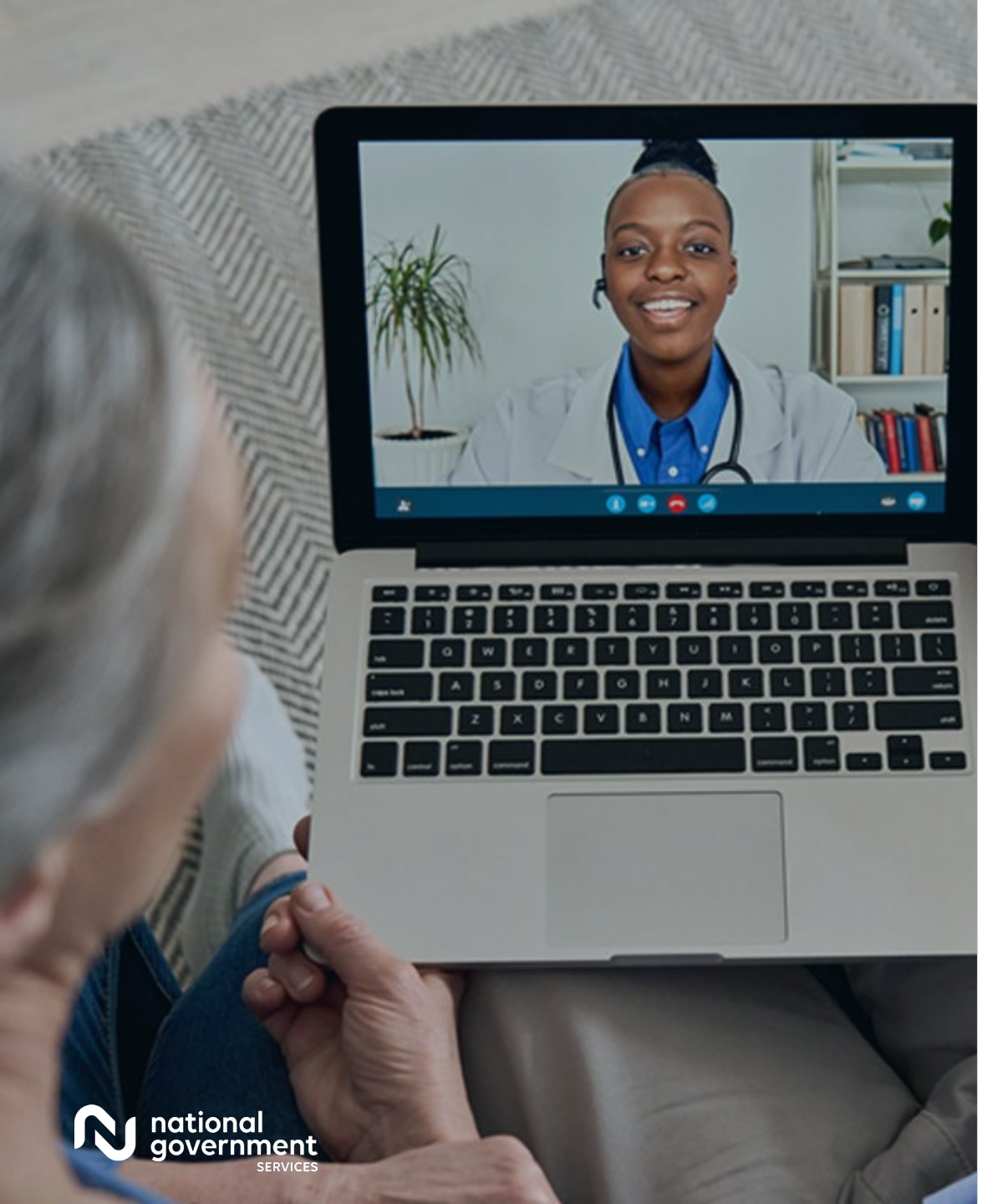
national government SERVICES

NGS PROVIDER EXPERIENCE
Innovation | Education | Collaboration

NGSMU

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.



national government SERVICES

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.

Objective

Familiarize providers with the Workers' Compensation provisions and workers comp set-aside arrangements.

Agenda

2023 Medicare Secondary Payer Webinars

MSP Resources

MSP and Your MSP Responsibilities

Workers' Compensation MSP Provisions

MSP Coding for Workers' Compensation

Workers' Compensation Medicare Set-Aside Arrangement

Questions and Answers

national government SERVICES

NGS PROVIDER EXPERIENCE
Innovation | Education | Collaboration

NGSMU

2023: MSP Webinar Series

2023 MSP Webinar Series

- May 2023
  - 5/4: MSP Fundamentals
- June 2023
  - 6/28: MSP Resources
- July 2023
  - 7/13: Identifying Primary Payers
  - 7/18: Setting Up & Correcting CWF Records
  - 7/20: MSP Rejections on Primary Claims
- August 2023
  - 8/8: Working Aged with EGHP MSP Provision
  - 8/10: Disabled with LGHP MSP Provision
  - 8/15: ESRD with EGHP MSP Provision
- September 2023
  - 9/6: No-Fault & Liability MSP Provisions
  - 9/20: Preparing & Submitting MSP Claims
  - 9/28: MSP Billing Examples
- October 2023
  - 10/4: Preparing & Submitting Conditional Claims
  - 10/11: Conditional Billing Examples
  - 10/18: MSP Claims That RTP
  - 10/25: Conditional Claims That RTP
- November 2023
  - 11/21: Adjustments Involving MSP
  - 11/28: Payment & Beneficiary Responsibility

Additional MSP Webinars

- Virtual conferences (include MSP as topic)
  - Twice a year
- Let's Chat About MSP Part A
  - Once a month
  - For all Part A providers including HHHs and FQHCs/RHCs
  - Ask MSP-related questions (no PHI)
  - Event posted to our website but no presentation

MSP Resources

Medicare Secondary Payer Resources

Fact: The more you know about MSP, the more easily you can achieve compliance with your MSP-related provider responsibilities

Tips: Review MSP resources available to you and continue to learn about MSP!

MSP and Your MSP-Related Responsibilities

What Is MSP?

- Beneficiary has coverage primary to Medicare
  - Based on federal laws known as **MSP provisions**
    - ✓ Help determine proper order of payers
    - ✓ Make certain payers primary to Medicare
    - ✓ Each has **criteria/conditions** that must be met
      - If all **are met,** services are subject to that provision making that other insurer primary and **Medicare secondary**
      - If one or more **are not met**, services are not subject to that provision; **Medicare is primary** unless criteria/conditions of another are met

Providers' MSP-Related Responsibilities Per Medicare Provider Agreement

Determine if Medicare is primary payer for beneficiary's services

Identify payers primary to Medicare

Submit claims to primary payer(s) before Medicare

May be more than one payer primary to Medicare

Submit MSP claims to Medicare when required

Follow claim submission guidelines

How to Identify Payers Primary to Medicare

- Check for MSP information in Medicare's records
  - Providers must check for MSP records for beneficiary in CWF
    - ✓ For each service rendered
- Collect MSP information from beneficiary or representative (MSP screening process)
  - Providers may need to ask questions about other insurance
    - ✓ For every IP admission or OP encounter, with some exceptions
      - You may not need to ask questions at all
      - You may need to ask questions but not as often

MSP Records in CWF – Information

- If MSP record(s) present, information includes:
  - **MSP value code (VC)** and **primary payer code** for each MSP provision
    - ✓ See 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's relationship to insured
  - Insurer's information

MSP Value Codes and Primary Payer Codes

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

Conduct MSP Screening Process

- Collect MSP information from beneficiary or representative
  - Ask questions about their MSP status
    - ✓ Use CMS' model questionnaire or your own compliant form
      - CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 3, Section 20.2.1
      - Three parts with questions to be asked in sequence
        - Part I – Black Lung, WC, No-Fault (automobile and other types) and Liability
        - **Part II – Medicare entitlement and employer GHPs**
        - Part III – ESRD Medicare entitlement, if applicable (including dual entitlement)

CMS' Model MSP Questionnaire – Part I

- Was the illness/injury due to a work-related accident/condition?
- If yes, the following WC information is required to submit claims appropriately
  - Name and address of employer
  - Name and address of insurance carrier
  - Policy or claim number
  - Date of the workplace illness or the injury

Note: WC is the primary payer only for services related to work-related injuries or illness

Collect Additional Information for Billing

- Collect additional information if applicable
  - Veterans who want to use VA coverage instead of Medicare
  - Beneficiaries receiving services covered by a Government Research Grant
  - **Retirement dates of beneficiary and/or spouse/family member**
    - ✓ If a person is retired, he/she does not have **current employment status** for purposes of Working Aged or Disabled MSP provisions
      - CMS IOM Publication 100-05, *Medicare Secondary Payer Manual*, Chapter 1, Section 20.1 (current employment status) and Chapter 2, Section 30

Determine Proper Order of Payers

- Determine which plan is primary, secondary, tertiary 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's 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

national government SERVICES

If Medicare is Primary

Submit Medicare primary claim

If Another Payer is Primary

Submit claim to that payer first and Medicare secondary if required

May need to submit conditional claim to Medicare if primary payer does not pay for a valid reason or promptly (within 120 days; accidents only)

If More Than One Payer is Primary

Submit claims to those payers and to Medicare third (tertiary)

Do Not Deny Medical Services

- Physicians, providers and suppliers shall not deny medical services or entry to a SNF or hospital after you discover that there is
  - Open or closed GHP or NGHP MSP record found in HETS or on CWF; or a claim that was previously mistakenly rejected by Medicare due to MSP occurrence
  - Medicare Secondary Payer: Do Not Deny Services and Bill Correctly

Workers’ Compensation MSP Provision

Workers' Compensation

- When Medicare began in 1966, it was the primary payer for all claims except for those covered by WC, Federal Black Lung benefits, and Veteran's Administration benefits, other MSP provisions were added in 1980
- WC is a state-administered program that pays for health care and other claims for job-related injuries
- WC pays primary for health care items or services related to job-related illness or injury claims

Workers' Compensation

- Payment under Medicare may not be made for any items and services to the extent that payment has been made or can reasonably be expected to be made for such items or services under a WC law or plan of the United States or any State
- When there is evidence that the no-fault insurer, liability insurer, or workers' compensation plan will not pay promptly, Medicare may make a conditional payment

Workers' Compensation

- Part A providers should
  - Obtain billing information prior to providing services
  - Providers may use the CMS model questionnaire or their own compliant version
  - Submit any MSP information using condition and occurrence codes (CC, OC) on the claim

MSP Coding for Workers' Compensation

CC When Medicare is Secondary to WC

- Submit MSP claim and report applicable MSP CCs
  - 02 (zero two) = Condition is employment-related

OC and Date When Medicare is Primary

- Submit Medicare primary claim and report, if applicable, OC
  - 05 (zero 5) and date of accidental injury
  - Beneficiary has accidental injury, but you have researched and determined there is no primary payer over Medicare

Occurrence Code and Date (OC/DATE) When Medicare is Secondary

- Submit MSP claim and report applicable MSP OCs
  - 04 (zero 4) and date of WC accident
  - 24 and date of denial

Value Codes (VC) and Dates When Medicare is Secondary

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

Medicare Secondary Payer WC VC

- 15 = Beneficiary has a work-related injury covered under workers compensation
- Along with appropriate MSP VC, include amount received from primary payer when submitting an MSP full or partial-paid claim
- When submitting conditional claim, list zeros as the dollar amount, as you did not receive any payment

Additional MSP Coding

- Primary Payer Code (Payer Code ID)
  - Payers labeled A, B and C
    - ✓ For MSP claims, report
      - For Payer A = A, B, D, E, F, G, H, L, S or T
    - ✓ For any conditional claims, report
      - For Payer A = C
      - For Payer B = Z
- Primary Insurer Name
  - Report complete/full name
  - Name must match MSP record
  - Name must not be vague such as “no-fault”
    - ✓ For MSP claims, report
      - Medicare in 50B or equivalent field

Additional MSP Coding (con't)

- Insured's Name
  - Report name of person who carries insurance
    - ✓ For MSP claims, report
      - Beneficiary's name in 58B or equivalent field
- Patient's Relationship to Insured
- Report code for relationship of patient to insured
  - 01 = Spouse
  - 18 = Self
  - 19 = Child
  - 20 = Employee
  - 21 = Unknown
  - 53 = Life partner
  - G8 = Other relationship
- For MSP claims, report 18 in 59B or equivalent field

Additional MSP Coding (con't)

- Insured's Unique ID
  - Report beneficiary's ID with primary insurer
    - ✓ For MSP claims, report
      - Beneficiary's MBI in 60B or equivalent field
- Remarks
  - Report two-digit code explaining reason primary payer did not pay or did not pay promptly
    - ✓ In Remarks (on first line)
      - Code options limited to ten
        - Codes were created by NGS: **NB, PC, CD, FG, BE, PE, DA, DP, LD and PP**
        - Some require more information (e.g., a date in MM/DD/YY format) which is placed one space over from code
- Report primary payer's address(s)
  - In Remarks (on second line) for hardcopy and 837I claims
  - **Note:** Use claim page 06 for FISS DDE claim entry

Workers' Compensation Medicare Set-Aside Arrangements (WCMSA)

WCMSA

- Any claimant who receives a WC settlement, judgment, or award that includes an amount for future medical expenses must take Medicare's interest with respect to future medicals into account
- Medicare may also refuse to pay for future medical expenses related to the WC injury until the entire settlement is exhausted
- Once the CMS-approved set-aside amount is exhausted and accurately accounted for to CMS, Medicare will pay primary for future Medicare-covered expenses related to the WC injury that exceed the approved set-aside amount

Past and Future Medical Services

- Past Medical Services
  - refers to Medicare-covered and otherwise reimbursable items and services that beneficiary receives before he or she obtains a WC settlement, judgment, award, or other payment
- Future Medical Services
  - refers to Medicare-covered and otherwise-reimbursable items and services that beneficiary receives after he or she obtains a settlement, judgment, award, or other payment

Lump-Sum WCMSA

- Claimant accepts a single payment for all future medical expenses related to work injury or disease
- Medicare will not make any payments for medical expenses until all funds in WCMSA have been completely exhausted

Structured WCMSA

- Payments are made to account on a defined schedule to cover expenses projected for future years
- An initial deposit is made to cover first surgery/procedure and first two years of annual payments
- Whole fund must be exhausted before Medicare will pay primary for any WC injury-related medical expenses
- If funds are exhausted in a given annual period
  - Medicare will pay primary for further WC injury-related medical expenses during that period
  - In next annual period, replenished WCMSA funds again must be used, until WCMSA amount is appropriately exhausted

Administration of WCMSA

- WCMSAs should be administered by a competent administrator
- Claimants may administer their own WCMSAs, if State law allows
  - highly recommended that settlement recipients consider the use of a professional administrator for their funds
- WCMSA funds may only be used to pay for expenses that would normally be paid by Medicare
- WCMSA administrator must send annual attestations
- MAC responsible for verifying funds from WCMSA were spent on medical services for Medicare-covered services

Administration of WCMSA

- Note: Even if there is no CMS-approved WCMSA, any funds from a WC settlement attributable to future medicals that are remaining at the time a claimant becomes a Medicare beneficiary must be used for Medicare-covered services related to the WC claim or settlement until such funds are exhausted, only then will CMS pay for Medicare-covered services related to the WC claim or settlement

MAC Responsibilities

- Ensure that Medicare makes no payments related to WC injury until WCMSA has been exhausted
  - Accomplished by electronic marker in CMS' systems used to pay or deny claims
  - Marker is removed once beneficiary can demonstrate appropriate exhaustion of an amount equal to WCMSA plus any accrued interest from account
  - For those with structured settlements, marker is removed in any period where the beneficiary exhausts their available funds; however, it is replaced once anniversary fund deposit occurs until entire value of WCMSA is demonstrated as entirely exhausted
  - WCMSA Reference Guide

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

Provider Responsibilities

- If payment has not been made or cannot be reasonably be expected to be made promptly by WC, liability insurance (including self-insurance), or no-fault insurance, Medicare may make conditional payments
- Prompt or promptly means payment within 120 days after receipt of claim for specific items and services by no-fault insurer or WC entity
- Indicators that a WCMSA may exist include
  - The condition was claimed as work-related and received full-and-final settlement that included funds for future care;
  - The beneficiary previously filed a workers' compensation claim for the same condition;
  - The beneficiary indicates that a WCMSA exists; or
  - The HETS 270/271 transaction shows that a "W" MSP WC record exists
- CMS IOM Publication 100-05 – *Medicare Secondary Payer Manual*

Provider Responsibilities

- Determine if the beneficiary or another party is responsible for payment from WCMSA
- Obtain address of where claims are to be sent, to beneficiary or other administrator

Beneficiary is the Administrator

- If the services rendered are related to the WC injury/illness
  - It is determined that beneficiary is administrator
  - Provider should bill beneficiary directly if
    - ✓ The treatment or prescription is for WC injury, AND
    - ✓ The treatment or prescription is something Medicare would cover
  - Beneficiary should pay out of WCMSA account
  - Beneficiary will be responsible for keeping accurate records of payments made from account
  - Every year beneficiary must sign and send a statement that payments made from that account were for Medicare-covered medical expenses that were WC related

Other Party is the Administrator

- Definition of a WCMSA administrator
  - Person/entity responsible for control and documentation of proper expenditures from WCMSA
  - SSA Representative Payee (i.e., an individual or organization appointed by the SSA to receive Social Security and/or Supplemental Security Income (SSI) benefits for someone who cannot manage or direct someone else to manage his or her money)
  - May be an attorney or
- If the services rendered are related to WC injury/illness
  - It is determined that another party is administrator
  - Provider should bill administrator if
    - ✓ Treatment or prescription is for WC injury, AND
    - ✓ Treatment or prescription is something Medicare would cover
- WCMSA Reference Guide

Submit Claim

- Claim should be submitted as an MSP claim
- Include appropriate MSP coding on claim
- If no response received within 120 days after claim billed to WC, WCMSA, option to submit a conditional claim

Questions?

Connect with us on Social Media

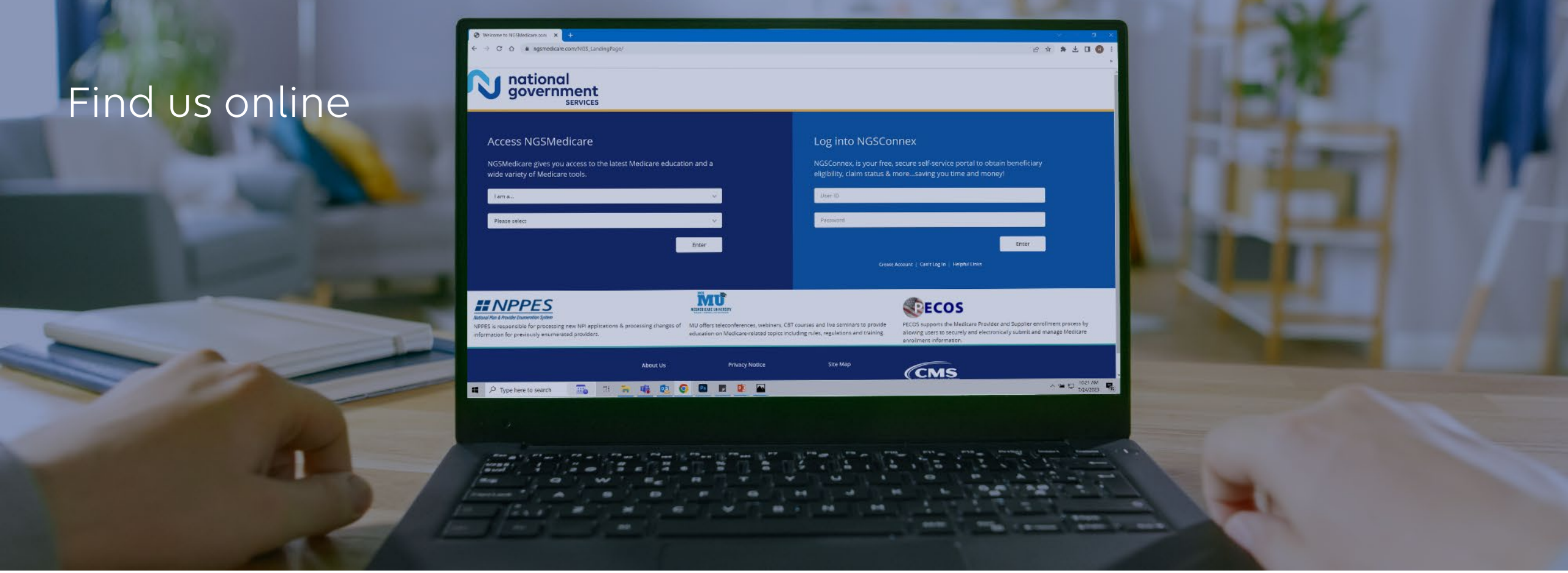
YouTube Channel
Educational Videos

medicare mobile
Text NEWS to 37702; Text GAMES to 37702

www.MedicareUniversity.com
Self-paced online learning

LinkedIn
Educational Content

Find us online



www.NGSMedicare.com
Online resources, event calendar, LCD/NCD, and tools

IVR System
The interactive voice response system (IVR) is available 24-hours a day, seven days a week to answer general inquiries

NGSConnex
Web portal for claim information

Sign up for Email Updates
Subscribe for Email updates at the top of any NGSMedicare.com webpage to stay informed of news