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Medicare Overpayment Process

3/19/25

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Objective

After this session, attendees will be able to identify Medicare overpayments and respond appropriately. In addition, attendees will know where to find helpful references and resources about the Medicare overpayment process.

Today's Presenters

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

Agenda

What Is an Overpayment?

Voluntary Refunds

Demand Letters

Remittance Advice

Stay in the Know with NGS!

Questions?

What Is an Overpayment?

Overpayments: The Big Picture

What is an overpayment?

Payment received in excess of amounts properly payable under Medicare statutes/regulations

Why do overpayments matter?

Once identified, amount of overpayment becomes debt owed to federal government

Federal law requires Medicare attempt to recover all identified overpayments

Why should I repay?

Failure to report and return overpayment may result in Civil Monetary Penalties under Public Law 111-148 of ACA

Overpayment Examples

- Duplicate claim submissions (paid twice for same service)
- Same service paid by Part A and Part B
- Furnished and paid for excessive or noncovered services
- Payment for excluded or medically unnecessary services
- Payment to incorrect payee
- Primary payment received when Medicare is secondary payer
- Paid for services planned but not performed
- Overpaid because of errors calculating cost-sharing amounts
- Paid for OP services already reimbursed on IP claim

Discovery of Overpayments and Errors

- Provider self-discovery
  - Potential violation(s) of federal criminal, civil or administrative laws
    - Report to OIG
    - Health Care Fraud Self-Disclosure Protocol
  - No potential violation(s) of law
    - Follow our voluntary refund process
    - Submit CBR if not refunded to Medicare at end of quarterly reporting period in which overpayment claim processed
- When we discover overpayment
  - Send demand letter to provider if monetary threshold met
    - May refer to OIG and other federal law enforcement agencies if potential fraud suspected
  - Six options for provider to respond to demand letter

935 Limitation on Recoupment

- Providers protected by limiting recoupment process during first two levels of appeal process
  - 935 Limitation on Recoupment regulations
  - Section 935 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA)
- Medicare recoups debt as soon as adjustment finalizes when 935 Limitation on Recoupment does not apply
- When 935 Limitation on Recoupment applies, Medicare will not begin or will cease overpayment collection when one of the following received
  - Valid redetermination request (first level of appeal)
  - Valid reconsideration request (second level of appeal)

When Does 935 Limitation Apply?

- Subject to 935 Limitation on Recoupment
  - Post-payment denials of claims by MAC and other review contractors
    - Medical Review, RAC, CERT, ZPIC, OIG
  - HH final claims
  - MSP recovery claims
- Not subject to 935 Limitation on Recoupment
  - Provider-initiated adjustments
  - Overpayments arising from cost report determination
  - Hospice cap calculations
  - Accelerated/advanced payments

Voluntary Refunds

Voluntary Refunds

- You self-identify overpayment and refund excess monies to us
  - Most refunds easily done by initiating adjustment (FISS DDE)
    - *FISS DDE Provider Online Guide*
  - If adjustment not possible, submit appropriate voluntary refund form
    - Jurisdiction 6 Part A Voluntary Refund Form
    - Jurisdiction K Part A Voluntary Refund Form
  - Complete all applicable sections, including reason code, and mail to correct address
    - If including check with form, we adjust claim and apply monies to overpayment
    - If no check included, we adjust claim and create account receivable
      - Generates demand letter to you
      - Can repay overpayment through offset process

MSP Post-Pay Adjustments

- Medicare paid primary but another insurance carrier is primary and overpayment identified:
  - Complete and submit voluntary refund form for each claim adjusting
    - Jurisdiction 6 Medicare Part A MSP Overpayment Request Form
    - Jurisdiction K Medicare Part A MSP Overpayment Request Form
  - Enter reason code on form assigning appropriate MSP provision to overpayment
    - 07 – MSP GHP
    - 08 – MSP no-fault insurance
    - 09 – MSP liability insurance
    - 10 – MSP WC (including Black Lung)
    - 16 – MSP Other
  - Include EOB statement from primary payer with voluntary refund form
  - Can include check or utilize offset process

What Is a Credit Balance?

- When provider receives improper or excess Medicare payment for claim
  - “Credit” in accounting system
- Must identify and repay outstanding monies owed to Medicare, such as:
  - Paid twice for same service either by Medicare or by Medicare and another insurer
  - Paid for services planned but not performed or for noncovered services
  - Overpaid due to errors made in calculating beneficiary deductible and/or coinsurance amounts
  - Paid for outpatient services included in beneficiary’s inpatient claim
- Credit balances do not include
  - Instances where provider received demand letter
  - When proper payments made by Medicare in excess of provider’s charges
    - Example - DRG payments made under IPPS
  - Post-pay adjustments subject to 935 Limitation on Recoupment regulations

Submitting CBRs

- As of 12/1/2024, Medicare Part A providers must submit CBRs to Medicare as soon as credit(s) identified, regardless of DOS
  - Quarterly Credit Balance Reports No Longer Required
- How to submit CBRs
  - Preferred method – NGSConnex online portal
    - *NGSConnex User Guide*
    - Manually enter or upload Medicare CBR (CMS-838) Excel Spreadsheet
      - All 15 columns must be completed for each credit balance identified
  - FISS DDE
    - Submenu 04, Option R3
- For more information
  - Credit Balance Reporting
  - Medicare CBR Form and Instructions (CMS-838)

Demand Letters

What Is a Demand Letter?

- When we identify overpayment, receivable created in Medicare system and demand letter issued to provider requesting payment
- Sent to provider address on file (PECOS, FISS DDE and NGSConnex)
- Explains
  - Amount of overpayment
  - Claim detail (if appropriate)
  - Why provider responsible for repayment of debt
  - Repayment options
  - Rebuttal/appeal rights
  - How interest accrues on debts
  - Information regarding what to do if provider filed bankruptcy petition

Demand Letters – Monetary Threshold

- Overpayment recovery process threshold = overpayment of $25 or more
- Initial demand letter sent requesting repayment once threshold reached
- All overpayments aggregated to meet threshold amount for initial demand letter
- If aggregated overpayment amount does not reach $25 within fiscal quarterly reporting period, debt written off

Interest Charged on Overpayments

- If not repaid in full within 30 days from date of final determination, interest
  - Accrues from date of demand letter
  - Assessed for each 30-day period that payment delayed after initial refund request
- References
  - CMS IOM Publication 100-06, *Medicare Financial Management Manual*, Chapter 4, Section 30
  - 42 CFR Section 405.378

Six Ways To Respond To Demand Letter

- Make immediate repayment
- Request immediate recoupment
- Request standard recoupment process (automatic offset/withholding)
- Request Extended Repayment Schedule (ERS)
- Submit rebuttal
- Request redetermination to appeal overpayment

Make Immediate Repayment

- Request in writing, including copy of demand letter and check for amount due
- When received by us, repayment amount applied toward intended receivable(s) in specific order
  - First toward any interest owed
  - Next toward principal balance due
  - Then toward other outstanding debts for provider or affiliated facilities
- If check received and overpayment previously offset or satisfied, money may be refunded to provider if no other outstanding debts for provider or affiliated facilities exist
  - View Outstanding Overpayments in NGSConnex

Request Immediate Recoupment

- Considered voluntary repayment
- Request must be received no later than 16th day from date of initial demand letter
  - Option to avoid interest when debt recouped in full prior to/by 30th day from initial demand letter date
- Request may be submitted via
  - Mail or fax using appropriate form based on jurisdiction
    - Jurisdiction 6 Part A Immediate Recoupment Request Form
    - Jurisdiction K Part A Immediate Recoupment Request Form
  - Electronic Email Form
- Will receive confirmation email of submission, no additional follow-up notices issued regarding request

Immediate Recoupment Options

- Two options
  - One-time request for all current overpayment(s) addressed in current demand letter and automatic recoupment for all future overpayments
  - All current overpayment(s) addressed in current demand letter only
- Can request to terminate previously established “one-time” immediate recoupment agreement

Standard Recoupment Process

- If no action taken after receiving demand letter
- Recoupment automatically begins on day 41 according to 935 Limitation on Recoupment schedule
- Interest begins accruing on day 31

Request ERS

- Can be requested at any time during debt collection process if more than 30 days needed to repay full amount of overpayment
  - Set Up an Extended Repayment Schedule – J6 Part A
  - Applying For An Extended Repayment Schedule - JK Part A
- Requests for ERS greater than 36 months forwarded to CMS for approval
- Interest rate charged on overpayments repaid through approved ERS schedule = rate in effect for quarter determination made
  - Rate remains constant unless provider defaults (i.e., misses two consecutive installment payments) on ERS agreement

ERS and Interim Payments

- Requesting within first 30 days of demand letter date may decrease necessity to withhold interim payments
  - Interim payments still may be withheld while considering ERS
- If submitted within 15 days of demand letter, withholding may be reduced from 100% to 30% during review process
- Any payments withheld applied to outstanding overpayment and not refunded

Submit Rebuttal

- Used when not disputing debt but have proof recoupment would adversely affect provider's financial situation
  - 42 CFR 405.373 -- Proceeding for offset or recoupment
- Submitted for any proposed recoupment action within 15 days of demand letter receipt
- Rebuttal process occurs prior to appeals process
  - Does not constitute an appeal or means of disagreeing with overpayment determination
  - Separate from Limitation on Recoupment regulations

File Appeal (Redetermination)

- If you disagree with overpayment decision, you may file appeal
  - Time limit to initiate = 120 days from date of receipt of initial determination notice
  - If subject to 935 recoupment limitation provision, file appeal by day 30 from date of demand letter to prevent recoupment starting on day 41
- Interest continues to accrue in event of affirmation of denial
  - Overpayment not recouped until decision made
  - If affirmed after first two appeal levels completed, collection may resume within designated timeframes and accrued interest charged

Ways to File Appeal (Redetermination)

- Via U.S. Mail – Part A Redetermination Request Form
- Submit an Appeal Electronically with NGSConnex
- Submit an Appeal Electronically via esMD

Bankruptcy

- If involved in bankruptcy proceeding/filed for bankruptcy, please contact us immediately
  - Contact information included in demand letter
  - We work with CMS and DOJ to ensure situation handled properly
- Medicare bankruptcy regulations
  - CMS IOM Publication 100-06, *Medicare Financial Management Manual*, Chapter 3, Section 140

What Happens to Delinquent Debt?

- Intent to Refer (ITR) letter sent when debt
  - 30 to 61 days delinquent (60 to 91 days from determination date)
  - Currently not paid in full, unless approved current ERS in effect
- If applicable, ITR letter includes amount of interest due, along with date of last interest accrual
  - CMS IOM Publication 100-06, *Medicare Financial Management*, Chapter 4, Section 70.8
- Providers have 60 calendar days to respond to ITR letter
  - If no response, debt turned over to U.S. Department of Treasury or Treasury-designated debt collection center within timelines specified in Digital Accountability and Transparency Act

When Debt Referred to U.S. Treasury

- May collect debt using various methods
  - Demand letters
  - Phone calls
  - Skip tracing
  - Administrative offset referrals
  - Private collection agency referrals, which may collect the debt with skip tracing, credit report search, demand letters, and phone calls
  - Federal salary offset
  - Administrative wage garnishment
  - Referral to U.S. DOJ for litigation

Overpayment Collection Timeline: Days 1 - 40

Timeframe	Activity
Day 1	We send overpayment determination demand letter within seven calendar days
Day 15	Last day you can submit rebuttal
Day 16	We begin immediate recoupment (if requested) or standard Part A overpayment recoupment (not subject to recoupment limitations or in excluded category)
Day 30	Last day to pay in full to avoid interest accrual
Day 31	Interest accrual begins for unpaid overpayments, request for redetermination submitted
Day 40	Last day you can pay overpayments in full before we begin recoupment (subject to 935 recoupment limitation)

Overpayment Collection Timeline: Days 41 - 150

Timeframe	Activity
Day 41	We begin standard overpayment recoupment unless overpayment in excluded category (for example, overpayments subject to recoupment limitation in redetermination appeal status)
Days 61-90	We send ITR letter for eligible delinquent debts
Day 90	We attempt to call you if debt 60 days delinquent and not in status excluded from referral to U.S. Treasury Department
Day 120	Last day you can submit initial redetermination appeal request
Days 126 – 150	We refer debt to U.S. Treasury

Remittance Advice

RARCs

- Additional explanation for adjustment already described by CARC or to convey information about remittance processing
  - External Code Lists
  - Remittance Advice Codes: What Are They and Where to Find What They Mean
- Common RARCs related to overpayments
  - N469 - Alert: Claim/Service(s) subject to appeal process, see section 935 of Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA)
  - N432 – Alert: Adjustment based on a Recovery Audit

How to Recognize 935 Adjustment on RA

- RA reflects negative amount at claim level because adjustment processed in normal fashion in FISS
- RA summary page adds adjusted amount back to net provider payment in “Adjustment to Balance” field
  - 935 Limitation on Recoupment funds not recouped immediately

Provider Level Balance (PLB) Codes

- PLB codes reflect adjustments made on RA not related to specific claim or service
  - Describes offsets, refunds, interest, incentive payments, and appeal decisions
  - CMS IOM Publication 100-04, *Medicare Claims Processing Manual*, Chapter 22, Section 60
  - Health Care Payment and Remittance Advice
- How to locate
  - SPR - Last page under Total of All Claims line
  - PC-Print and ERA - Payee Summary Report section

PLB Code FB – Forwarding Balance

- Represents monies owed back to Medicare from previous RA
  - Monies not available or not able to be recouped at time RA processed
  - Balance moved forward to future RA to be reconciled
- Original DCN and MBI/patient control number applied for tracking purposes

PLB Code WO – Overpayment Recovery

- Occurs due to RA, PSC, CERT or other post-pay adjustment resulting in recoupment of payment
- Subject to 935 Limitation on Recoupment statute
- Demand letter also issued notifying provider of overpayment to Medicare
- WO represents principal amount and E3 represents amount applied to interest

PLB Code OB – Offset for Affiliated Providers

- Occurs on RA due to money withheld for affiliated provider's debt
- How to locate
  - ERA - PLB03-2 segment contains information to assist identifying affiliated provider and/or their debt owed to Medicare
- Providers need to work with their affiliated facility(s) to recoup money from those facility(s)

PLB Code WU – Unspecified Recovery

- Occurs on RA when debt provider owes other than Medicare debt
- Currently utilized for IRS debts owed by provider
- Toll-free telephone number provided on RA to contact U.S. Treasury to determine which debt withheld money applied
- When balancing RA, billing staff should
  - Post account as usual
  - Document that payment went towards paying IRS debt

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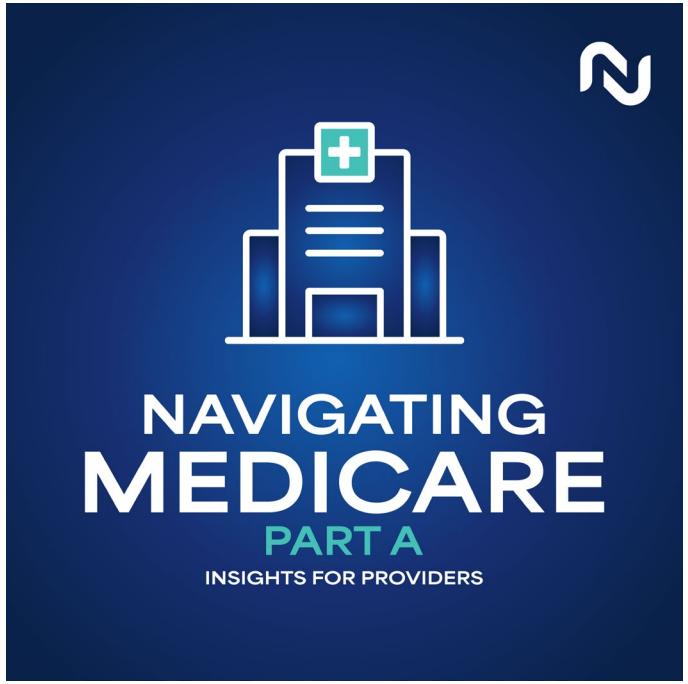

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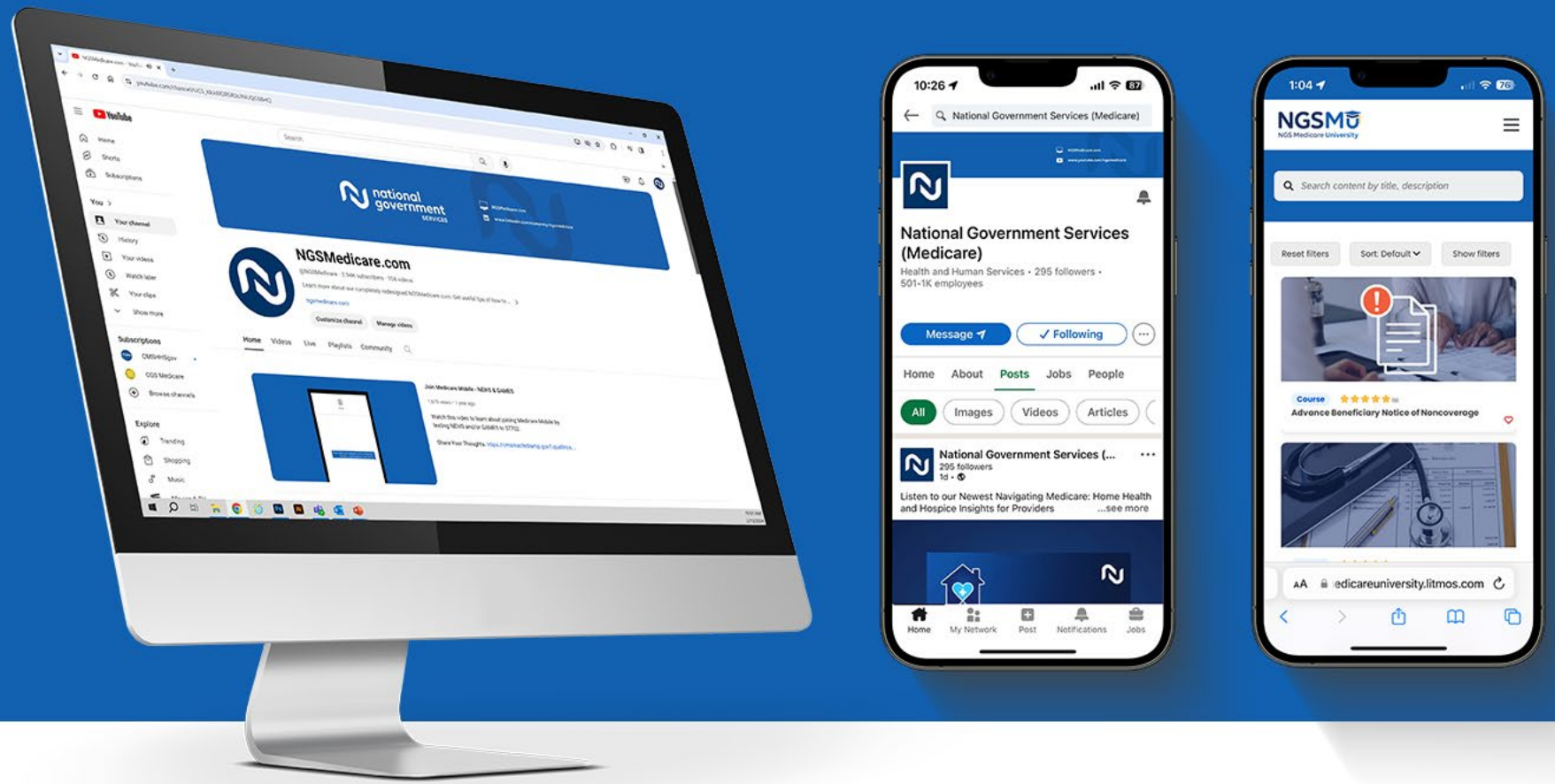

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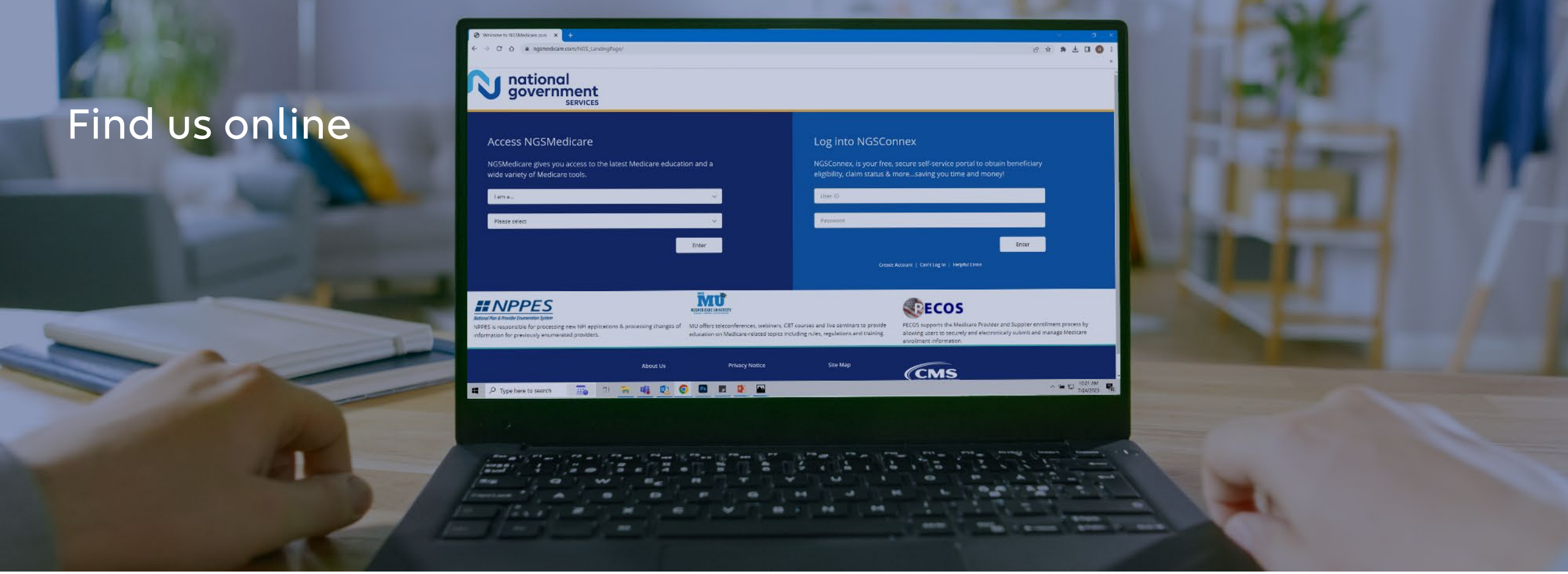

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