

Understanding The MOON and Observation

7/23/2024

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Objective

Hospitals and CAHs should gain an understanding of the

- CMS MOON including when and how to use
- Observation and two midnight rule

Today's Presenter

- Provider Outreach and Education Consultants
 - Jean Roberts, RN, BSN, CPC





Agenda

- MOON Discussion:
 - Explanation of MOON
 - MOON Regulations
 - Delivering MOON
 - FAQs and Reminders
- Observation
- Two-Midnight Rule
- SNF Eligibility
- Resources and Wrap up
- Questions

Acronyms

- [NGS website](#) – alphabetical search
- CMS
 - [Acronyms search](#)
 - Download [Acronym List](#)



Medicare Outpatient Observation Notice (MOON): CMS-10611

What Is The MOON?

- Form CMS-10611
 - CMS standardized form
 - Required notice for observation stay
 - Applies to
 - Hospitals and CAHs when providing observation services
- Inform beneficiary
 - Outpatient receiving observation services
 - Not an inpatient
- Applies to beneficiary
 - Medicare FFS
 - NGS
 - Medicare Advantage
 - Contact specific MA plan

Observation and Two-Midnight Rule

- Observation
 - Short-term outpatient services received while Medicare beneficiary in emergency or other outpatient department of hospital for monitoring purposes and/or to determine whether inpatient admission necessary
 - Physician order required for observation
- Two-Midnight Rule
 - Inpatient admissions generally payable under Part A if admitting practitioner expects patient to require hospital stay that crosses two midnights and medical record supports that reasonable expectation
 - Physician order required for inpatient admission

MOON Regulations



- Effective 10/1/2016, hospitals are required to issue CMS 10611-MOON for observation stays
 - Updated form mandatory for use by 4/27/2023
 - [Form CMS 10611-MOON](#) (OMB approval 0938-1308) expires 11/30/2025
 - CMS will replace with revised form on/before expiration date
- Mandated by Federal Notice of Observation Treatment and Implication for Care Eligibility Act ([NOTICE Act](#)), passed 8/6/2015
 - Amends SSA Title XVIII
 - [Federal Register](#)

Why Issue the MOON?

- Assist beneficiary in understanding outpatient observation status
- Ensures beneficiary understanding of
 - Financial obligations including cost-sharing requirements
 - Lack of eligibility for Medicare coverage of subsequent SNF services/stay
- Allows beneficiary to make informed health care decision

A person wearing glasses is looking at a laptop screen. The laptop screen is blank white. The person's hand is visible near the bottom left of the laptop.

MOON (CMS-10611)

Available in English and Spanish

- [Medicare Outpatient Observation Notice](#)
or
- [Beneficiary Notices Initiative \(BNI\)](#)
 - Scroll through chart of various notices to MOON Notice (CMS-10611)

Instructions

- [Centers for Medicare & Medicaid Services \(CMS\) Internet-Only Manual \(IOM\), Publication \(Pub\) 100-04, Medicare Claims Processing Manual, Chapter 30, Section 400 - Part A Medicare Outpatient Observation Notice](#)

Delivering the MOON

- You must provide MOON to beneficiary receiving observation services as an outpatient
- Trigger: When 24 hours of observation services have been provided
- Timing of delivery: No later than 36 hours after initiation of observation services, or before transfer, outpatient discharge, or inpatient admission and must be
 - Accompanied by oral explanation of information contained in form
 - Signed by beneficiary or beneficiary's representative

MOON Timing

- Flexibility allows hospitals and CAHs to spread out delivery of MOON and other hospital paperwork to avoid overwhelming and confusing beneficiary





Reminder

Staff should

- Ensure MOON is understood by beneficiary/representative
- Be available to answer questions
- Ensure patient and family understand content and meaning of MOON

Completing the MOON

- Patient name
- MBI
- Reason patient is outpatient (not inpatient)
 - Not sufficient to add generic note, such as “Your doctor has decided to treat you as an outpatient”



Additional Information Field

- Use to add any additional information related to beneficiary
 - Notation that beneficiary refused to sign notice
 - Additional content required under applicable state law related to notice of observation services
 - Contact information for specific hospital departments or staff members
 - Part A cost-sharing responsibilities (coinsurance/deductible)
 - If admitted as inpatient before delivery – date and time of inpatient admission
 - Medicare ACO information
 - Hospital waivers of beneficiary’s responsibility for cost of self-administered drugs

State Specific Observation Notices

- Specific state required information may be added to “Additional Information” field of MOON or as additional page
- **Do not alter** formatting of official MOON

Oral Notification

- Hospitals and CAHs required to explain MOON and content
 - Must document oral explanation provided
 - Must ensure beneficiary/representative comprehension
 - Staff must be available to answer questions
 - Ensure beneficiary/representative signs and dates MOON
 - Signature ensures MOON was received and contents understood

Appointed versus Authorized Representative

- Appointed Representative – Chosen by beneficiary to act on his/her behalf
 - Use [Appointment of Representative form CMS-1696](#)
- Authorized Representative – Typically authorized under state law to make health care decisions on beneficiary's behalf
 - Examples
 - Legal guardian
 - Someone appointed in accordance with properly executed durable medical power of attorney

Incompetent Beneficiary

- If legally incompetent, cannot issue to beneficiary
 - Issue notification to authorized representative of beneficiary
- Temporarily incapacitated/absence of legally binding document
 - Hospital or CAH determines who could reasonably represent beneficiary for purpose of receiving MOON (e.g. family member or close friend)
 - Representative must act in beneficiary's best interest and in a manner protective of beneficiary/beneficiary's rights and have no relevant conflict of interest with beneficiary
 - Documentation of staff initiating contact, name of person contacted, and date/time/method of contact must be documented on MOON



Beneficiary Notification Points

Medicare benefit and limitations

Must have Medicare Part B

Not covered under Medicare Part A

SNF inpatient stay requires 3-day medically necessary inpatient hospital stay for a related illness/injury

Outpatient not an inpatient

Observation does not count toward three-day inpatient stay required for SNF inpatient stay

Financial implications

Part B copay applies to each service

Medicare does not cover SNF inpatient stay resulting from observation stay

Beneficiary Refusal to Sign

- If possible, have representative sign for beneficiary
- If no representative, form must be signed by staff member who presented MOON and include
 - Date and time notification issued
 - Date and time of refusal considered to be date of MOON receipt
 - Staff person's signature, name and title on form
 - Certification that MOON presented
 - Use "Additional Information" section of MOON to include staff member's signature and certification of delivery

MOON Electronic Format

- When using electronic format to obtain signatures, beneficiary has option to request paper format
- Always provide a copy of completed and signed paper version to beneficiary/representative

Exception to In-Person MOON Notification Requirement

- Telephonic notification must include all contents of MOON
- Must also include in “Additional Information” section
 - Date and time of telephone contact
 - Name of staff person initiating contact
 - Name of representative contacted by phone
 - Telephone number called
- Hardcopy of MOON must be sent to representative
 - Use any delivery method that can provide signed verification of delivery
 - When all parties agree, MOON may be faxed/emailed via method that ensures HIPAA compliance

MOON FAQ 1

- How should hospitals and CAHs complete the “You’re a hospital outpatient receiving observation services. You are not an inpatient because” free-text field?
 - Language provided in free-text field should be understandable to beneficiary and generally explains
 - Physician ordered outpatient observation services to evaluate beneficiary’s symptom(s) and diagnosis
 - Beneficiary’s condition and symptoms continue to be evaluated during observation
 - Observation ends when physician orders hospital inpatient admission, transfer, or discharge

MOON FAQ 2

- Does CMS plan to provide specific language or examples for free-text field?
 - No, CMS does not plan to provide specific language or examples for free-text field
 - Hospital/CAH responsible for populating free-text field with clinical rationale specific to each beneficiary's circumstances based on treating physician's clinical judgment

MOON FAQ 3

- Are hospitals and CAHs permitted to use pre-populated check boxes for “You’re a hospital outpatient receiving observation services. You are not an inpatient because” free-text field?
 - Yes, hospitals and CAHs may develop and use pre-populated check boxes with common clinical explanations so long as free-text field is retained for circumstances that do not fit within prepopulated check boxes

MOON FAQ 4 and 5

- Are psychiatric hospitals subject to the NOTICE Act requirement to deliver the MOON?
 - Yes
- Is it permissible to adjust or modify MOON format?
 - Language in MOON approved by OMB
 - Providers may only modify document text as per CMS guidance (e.g., free text field)
 - Providers also may not change standardized OMB-approved notice formatting, such as moving a signature line from back to front page of MOON or continuing MOON on third page

Signature on Behalf of Beneficiary

- When another person signs on behalf of beneficiary, include
 - Name of staff person initiating contact
 - Name of person contacted
 - Date, time and method (in person or telephone) of contact

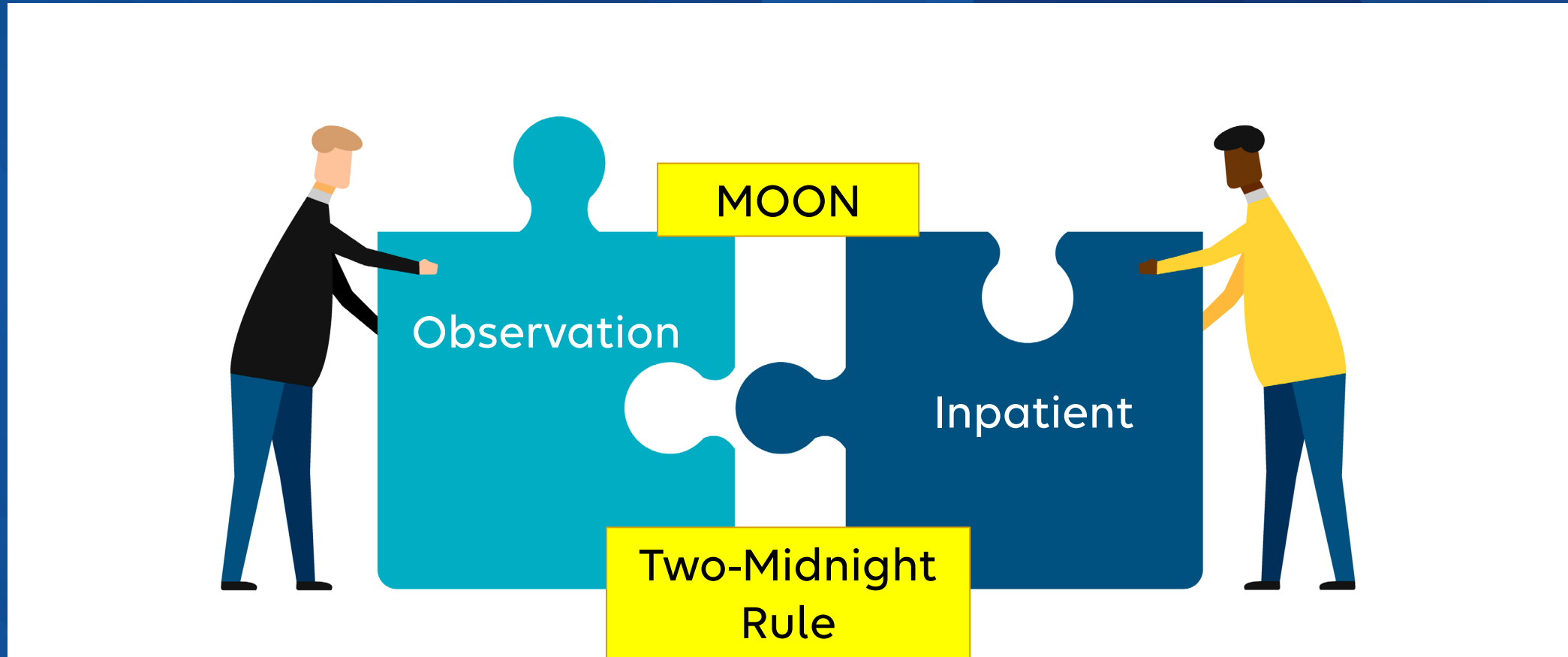
Medical Record

- Original completed MOON becomes part of patient's medical record
 - Proof of delivery must be documented in medical record
 - When not delivered in person, add copy of return receipt (FedEx or US Mail) or other proof of delivery
 - Include, when applicable, in response to request for medical records
- Must provide copy of completed, signed MOON to beneficiary/representative
 - Provide even when electronic signature format was used

Important Points

- Failure to provide MOON to applicable beneficiaries when required is considered a violation of hospital's Medicare provider agreement
 - May result in termination of provider agreement
- Issuance of MOON form does not constitute initial determination nor denial of coverage
- MOON does not provide appeal rights
 - MSN communicates appeal rights
- MOON does not limit or restrict appeal rights

Observation and Two-Midnight Rule



Definition of Observation

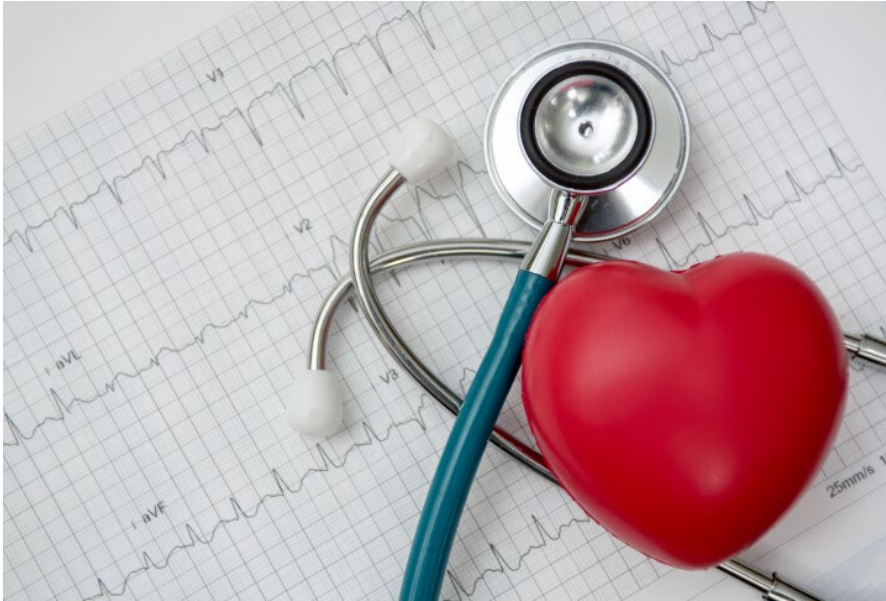
- Requires physician order for observation
- Set of specific, clinically appropriate services which include
 - Ongoing short-term treatment
 - Assessment and reassessment before decision made regarding
 - Further treatment as hospital inpatient or
 - Able to be discharged or transferred from hospital
- [CMS IOM, Publication 100-02, Medicare Benefit Policy Manual, Chapter 6, Section 20.6 - Outpatient Observation Services](#)



Observation Start/End Time

- Begins at clock time documented in patient's medical record coinciding with time observation care initiated in accordance with physician's order
- Ends when inpatient admission ordered, or medically necessary observation services completed
- Must be documented in patient's medical records

Observation Services



- Decision whether to discharge patient from hospital following resolution of reason for observation care or to admit patient as inpatient
 - Usually made in less than 24 hours
 - In majority of cases, made in less than 48 hours
 - Spanning more than 48 hours only for rare and exceptional cases

Observation Billing Reminder

- Hospital/CAH required to bill observation services correctly and appropriately according to CMS' observation guidelines
- Observation time
 - Begins at clock time documented in patient's medical record
 - Must coincide with time observation care initiated in accordance with physician's order
 - When observation spans more than one calendar day
 - All hours for entire period of observation must be included on single line
 - Line DOS = date observation care begins

What is the Two-Midnight Rule

- Developed, in part, to address trend of
 - Prolonged outpatient observation
 - Beneficiary financial burden
 - Lack of required three-day qualifying inpatient hospital stay for Medicare coverage of SNF inpatient stay
- In general, Two-Midnight rule states
 - Inpatient admissions generally payable under Part A if
 - Admitting practitioner expects patient to require a hospital stay that crosses two midnights and
 - Medical record supports that reasonable expectation

Two-Midnight Inpatient Stay

- Medicare Part A payment generally not appropriate for hospital stays not expected to span at least two midnights
- Exception: Cases involving procedure identified on inpatient-only list or identified as “rare and unusual exception” to Two-Midnight benchmark by CMS are exceptions to this general rule
 - Inpatient admission may be payable under Medicare Part A on case-by-case basis based on judgment of admitting physician
 - Documentation in medical record must support that inpatient admission necessary and subject to medical review

CMS Expectation: Two-Midnight Inpatient Stay

- Unlikely for beneficiary to require inpatient hospital admission for minor surgical procedure or other treatment expected to span only a few hours and does not span at least overnight
- Two-Midnight rule also specifies
 - All treatment decisions for beneficiaries based on medical judgment of physicians and other qualified practitioners
 - Does not prevent physician from providing any service at any hospital, regardless of expected duration of service

SNF Inpatient Stay

SNF Eligibility Criteria

- SNF services extend care after hospital or swing bed discharge or within 30 calendar days of hospital stay
 - Unless admission within 30 calendar days is medically inappropriate
- Three consecutive inpatient hospital stay requirement prior to SNF stay
 - Must be medically necessary
 - Consecutive days can be in one or more hospitals
- Hospitals and CAHs should clearly communicate number of inpatient days to SNF and beneficiary/representative
 - Ensures all parties fully understand potential payment liability



Three-day Inpatient Stay

- Count inpatient days
 - Use midnight-to-midnight method
 - Day begins at midnight and ends 24 hours later
 - Part of any day, including admission day and day patient returns from leave of absence, counts as full day
- Three consecutive inpatient days in one or more hospitals
 - Count admission day
 - **Do not** count discharge day
 - **Do not** count any outpatient, observation or emergency department time



FYI: Proposed Rule

- On 12/21/2023, CMS issued proposed rule to establish appeals processes for certain people with Medicare who are
 - Initially admitted to ACH as inpatient but subsequently reclassified by ACH as outpatient receiving observation services during their hospital stay and meet other eligibility criteria
- [Fact sheet](#)
- [Proposed rule \(CMS-4204-P\)](#)

SNF Resources

- [MLN[®] Fact Sheet, MLN9730256: Skilled Nursing Facility 3-Day Rule Billing](#)
 - Includes “3-day Rule Waiver” information applicable to certain Shared Savings Program ACOs
- [CMS IOM, Publication 100-02, Medicare Benefit Policy Manual, Chapter 8, Section 20.1 – Three-Day Prior Hospitalization](#)
- [MLN[®] Booklet: Skilled Nursing Facility Billing Reference](#)

Resources

Resources 1

- [CMS Beneficiary Notices Initiative \(BNI\)](#): Manual instructions with more specific detail on various required notices
 - [FFS & MA MOON](#) (CMS-10611)
 - Downloads section:
 - Zip file: CMS-10611 (MOON) Form- English and Spanish (Incl Large Print) (ZIP)
 - MOON FAQs (DOCX)
- Submit questions concerning FFS BNI Notice, MAO plan notices, and MOON
 - <https://appeals.lmi.org>

Resources 2

- [Change Request \(CR\) 9935: Medicare Outpatient Observation Notice \(MOON\)](#)
- [CMS Fact Sheet: Two-Midnight Rule \(10/30/2015\)](#)
- [CR 10080: Clarifying Medical Review of Hospital Claims for Part A Payment](#)
- [Hospital Inpatient Admission Order and Certification](#)
- NGS Production Alert
 - [“Incorrect Billing for Part A Outpatient Observation Services”](#): G0378 billing reminder!

Resources 3

- CMS IOM, Publication 100-02, *Medicare Benefit Policy Manual*
 - [Chapter 1](#), Section 10 – Covered Inpatient Hospital Services Covered Under Part A
 - [Chapter 6](#), Section 20.6 – Outpatient Observation Services
- CMS IOM, Publication 100-04, *Medicare Claims Processing Manual*
 - [Chapter 4](#), Section 290 – Outpatient Observation Services
 - [Chapter 29](#), Section 270 – Appointment of Representative
 - [Chapter 30](#), Section 400 – Part A Medicare Outpatient Observation Notice

Resources 4

- CMS Inpatient-Only List: [CMS Hospital Outpatient PPS - Addendum A and Addendum B Updates](#)
 - **Addendum B:** Code assigned to **Status Indicator = C** (Inpatient-only procedure)
- [BFCC-QIO 2 Midnight Claim Review Guideline](#)
- [Physician Orders to Admit to Inpatient Hospital or for Observation Services](#)

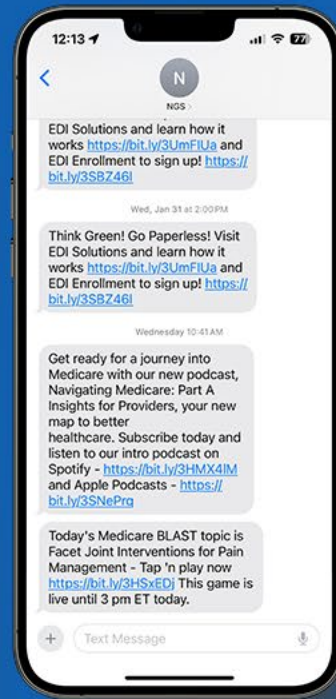
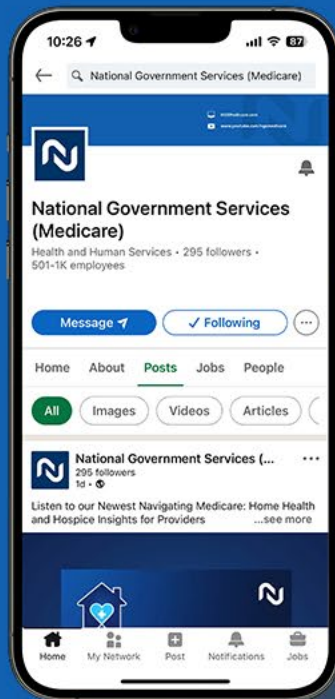
NGS Medicare University Course

- [NGS Medicare University](#) CBT module
 - PTA-C-0051 – MOON Notice
- NGS [Medicare University User Guide](#)



Questions?

Thank you!



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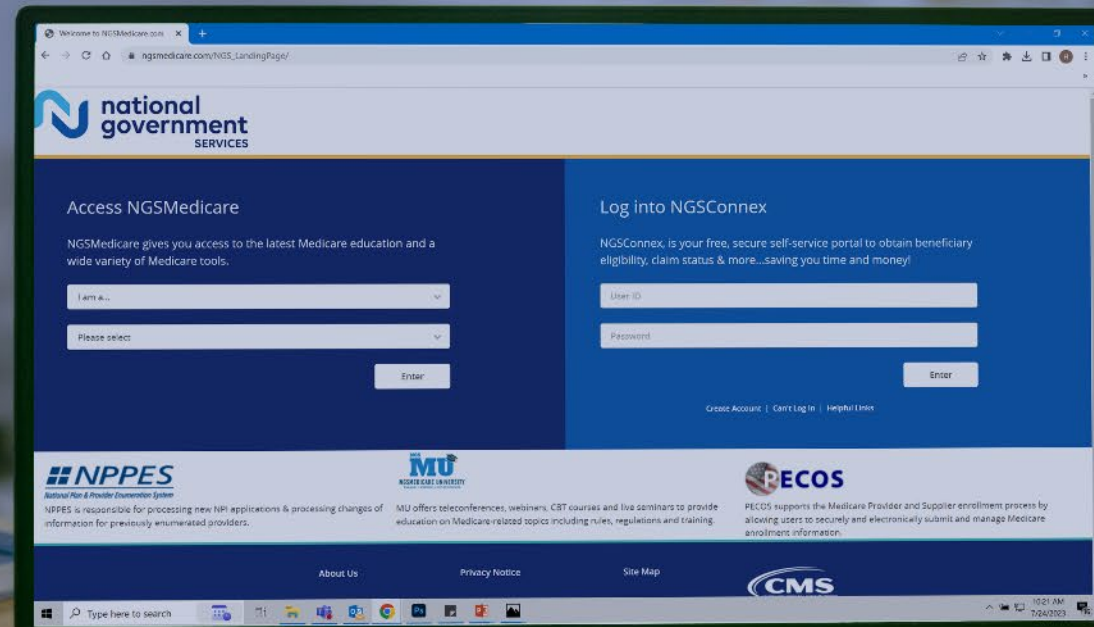
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