Medicare Secondary Payer Compliance

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Special Thanks

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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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