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Significant Updates to Internet Only Manual (IOM) Publication (Pub.) 100-05 Medicare Secondary Payer (MSP) Manual, Chapter 5

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Provider Types Affected

This MLN Matters Article is for physicians, providers, suppliers, and hospital-affiliated services billing Medicare Administrative Contractors (MACs) for services they provide to Medicare patients.

Provider Action Needed

Make sure your billing staff knows about:

- Updates to Chapter 5 of the Medicare Secondary Payer (MSP) Manual
- Sending claims to primary payers before billing Medicare

Background

Under Medicare law as enacted in 1965, Medicare was the primary payer for services except those covered by workers' compensation. In 1980, Congress enacted the first in a series of provisions that made Medicare the secondary payer to certain primary plans. The purpose was to shift costs from the Medicare Program to private sources of payment. These provisions are known as the Medicare Secondary Payer (MSP) provisions and are in section 1862(b) of the Social Security Act.

The MSP provisions prohibit Medicare from making payment, if payment has been made or can reasonably be expected to be made, by the following primary plans when certain conditions are satisfied:

- Group health plans
- Workers’ compensation plans
- Liability insurance
- No-fault insurance

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Although Chapter 5 is a key chapter that explains MSP policy and operational procedures, no MSP policy or operational changes are being made to this chapter. The key updates of importance to you are:

- CMS now refers to the entity that used to be known as the Benefits Coordination & Recovery Center (BCRC) or the Coordination of Benefits Contractor (COBC) as the MSP Contractor responsible for coordination of benefits. See section 10 of revised MSP Manual chapter.
- There may be times MACs incorrectly deny claims because the services performed for an accident or injury aren't related to the Liability, No-fault or Workers' Compensation MSP situation. Even though the diagnosis codes on the claim are within the family of diagnosis codes found on the MSP NGHP record, there are situations where the claim services aren't related to the accident or injury. If you send evidence to show the services performed are unrelated to MSP, the MAC may make payment on the claim. (See section 20.4.2 of revised manual.)
- When you indicate Medicare as primary payer on a claim, we'll assume, in the absence of evidence to the contrary, that you correctly showed there's no other primary coverage and process the claim accordingly. We note exceptions in section 30.2.
- Medicare is the secondary payer throughout the entire 30-month ESRD coordination period when a patient is eligible for, or entitled to, Medicare on the basis of ESRD. (See section 30.3.1.)
- When we deny Medicare benefits because all or part of the services are reimbursable under the Black Lung (BL) program, by virtue of the diagnosis codes you submitted, the MAC will advise you to send the claim to U.S. Department of Labor OWCP/DCMWC, P.O. Box 8307, London, KY 40742-8307. (See section 30.4.)
- We use Claim Adjustment Reason Codes (CARCs) to see why a claim wasn't paid by the no-fault insurer and whether we should make a Medicare payment. (See section 30.5.2, which also has some claim examples.)
- If your MAC believes that a Group Health Plan (GHP) may be the primary payer, it will return the bill to you to ascertain whether primary GHP benefits are payable, and if so, advise you to bill for primary benefits. The MAC will instruct you on the remittance advice that if a GHP has denied its claim for primary benefits, you must note on the claim the reason for the denial based on the CARC that applies. No attachment is needed. (See section 40.1.)
- If you send a Medicare Part B claim without a GHP's explanation of benefits, or the appropriate primary payment information isn't on an 837 claim, we'll deny the claim. (See section 40.3.) Examples of acceptable reasons why the GHP can't pay are:
    - A deductible applies
    - The patient isn't entitled to benefits
    - Benefits under the plan are exhausted for particular services
    - The services aren't covered under the plan

More Information

We issued CR 12765 to your MAC as the official instruction for this change. We encourage you

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to review the entire revised chapter 5, which is included with CR 12765.

For more information, find your MAC’s website.

Document History

Date of Change	Description
August 15, 2022	Initial article released.

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