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# MASTERING THE MEDICARE SECONDARY PAYER (MSP) MAZE & THE NEW RULES OF SETTLEMENT: CUTTING-EDGE COMPLIANCE STRATEGIES

# PANEL

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# MEDICARE ELIGIBILITY

- **Medicare**
  - Found in the Section 111 Reporting
    - the Query identifies current Medicare beneficiaries
  - Part A – eligibility dates
  - Part B – eligibility dates
  - Part C – last three years up to 12 occurrences
  - Part D – last three years up to 12 occurrences
- **Reasonable Expectation**
  - Social Security Disability – applied / denied / appeal
  - Age 62 and half
  - ESRD – serious medical conditions

# MEDICARE SET-ASIDES

- Obtaining the MSA
  - When
    - Treatment Status
    - Positioning for Settlement
  - Type
    - Beneficiary Status
    - Allocation Type
    - Submit or Non-Submit
    - Indemnification
- Mitigation
  - Medical
  - Prescription
- CMS Submission or Non-Submit
  - Evidence-Based Medicine

# SETTLEMENT

- **Funding**
  - Lump Sum
  - Structured Settlement Annuities
  - Reversionary Clauses

- **Administration**
  - Professional
  - Self- Administration
  - Reversionary Clause

# SECTION 111 REPORTING

- ONLY for current Medicare beneficiaries
- Directly impacts the Conditional Payment process
- Impacts the Medicare beneficiary post settlement
- Civil Money Penalties (CMPs) for untimely reporting

# TPOC - ADDITIONAL FIELDS

| Field Name | Description | Required |
|---|---|---|
| MSA Amount | Total MSA Amount | Yes, if WC and TPOC is reported |
| MSA Period | Period of coverage in years | Yes, if the MSA amount is greater than $0 |
| Lump/Annuity Indicator | Is the settlement setup as a lump sum or a structured annuity? | Yes, if the MSA amount is greater than $0 |
| Initial Deposit Amount | Initial amount deposited | Yes, if specified as a structured annuity |
| Anniversary (Annual) Deposit Amount | Amount deposited annually | Yes, if specified as a structured annuity |
| Case Control Number | ID from case that has been established with CMS | No – not on cases that have not been in the CMS submission process. But is essentially required when a case was submitted |
| Professional Administrator EIN | Tax ID of the Professional Administrator if one exists | No – not required on cases that are self administered. But is essentially required when a case is professionally administered. |

# MULTIPLE CLAIMS

Single settlement resolving multiple incidents (different Dates of Incident) –

Where there are multiple incidents (multiple dates of incident) being resolved with one TPOC, the RRE shall report the earliest date* of incident and include all diagnosis codes being settled for all dates of incident. This applies regardless of the timing of the subsequent dates of incident, the nature of the injuries, or any allocation made to each date of incident in the settlement documents. This ensures that all medicals that were released by the settlement are accurately recovered while still affording the beneficiary a dispute and administrative appeal process if any claims are erroneously identified

*valid as of today, may change in future

# CIVIL MONEY PENALTIES

- ONLY for ‘untimely’ reporting of:
  - Acceptance of Ongoing Responsibility for Medicals (ORM)
  - Total Payment Obligation to Claimant (TPOC)
- Audit Approach
- Appeals Process (Informal and Formal)
- Five Year Statute of Limitations
- Safe Harbors
- Tiered Penalties for Non-Group Health Plans (NGHPs)
- Rejected Records Can Cause Late Reporting

# ANY QUESTIONS?

# APPENDIX

# HELPFUL LINKS

- Federal Register :: Medicare Program; Medicare Secondary Payer and Certain Civil Money Penalties
- NGHP CMP Webinar
- NGHP User Guide Chapter III Policies v8.4 April 2026

# DEFINITIONS & ACRONYMS

- **Medicare:**
  - Part A: Hospital
  - Part B:  Physician Services/Outpatient Services
  - Part C: Medicare Advantage Plans
  - Part D: Prescription Drug Coverage
- **SSDI** – Social Security Disability Insurance
- **ESRD** – End State Renal Disease
- **Reversionary Clause** - when the injured worker passes away, any funds remaining in the WCMSA account would “revert” back to the carrier.

# DEFINITIONS & ACRONYMS

- **Section 111 –** Mandatory Insurer Reporting
- **ORM – Ongoing Responsibility for Medicals -** the RRE's responsibility to pay, on an ongoing basis, for the injured party's (Medicare beneficiary's) medicals associated with the claim.
- **TPOC – Total Payment Obligation to Claimant -** the dollar amount of a settlement, judgment, award, or other payment in addition to or apart from ORM