



Service: MSPA (Medicare Secondary Payer Accreditation)
Module: LEARNING MODULE 7
Medicare Conditional Payments, Part 2
The U.S. Department of Treasury & Post Settlement Litigation
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Summary

This module, led by Kayla Pigeon, delves into the role of the U.S. Department of Treasury in Medicare Secondary Payer (MSP) recovery processes and examines the implications of post-settlement litigation. The session highlights critical aspects of managing conditional payments and the risks associated with failure to comply with Medicare's stringent requirements.

Understanding the Department of Treasury's Role: Conditional payment debts may be referred to the Department of Treasury if Medicare's recovery contractors—the Commercial Repayment Center (CRC) for ongoing responsibility for medical (ORM) claims and the Benefits Coordination Recovery Center (BCRC) for post-settlement liens—do not receive timely or adequate responses. Treasury referrals involve enforcement actions such as offsets, private collection agency involvement, and garnishments. Between 2020 and 2022, Treasury collections for Medicare debts rose significantly, underlining the increasing emphasis on prompt debt recovery. Treasury referrals often occur when responsible reporting entities (RREs) fail to update Section 111 reporting data or misunderstand Medicare's demand letters.

Key Processes and Challenges:

1. **Conditional Payment Letters and Notices:**
 - Conditional Payment Letters (CPLs): Non-time-sensitive but require review and response before subsequent notices.
 - Conditional Payment Notices (CPNs): Time-sensitive, requiring responses within 30 days to prevent automatic issuance of demand letters.
2. **Demand Letters and Referrals:**
 - Demand letters trigger deadlines for payments (60 days) and appeals (120 days). Failure to meet these deadlines results in Treasury referrals.
3. **Treasury Offset Program (TOP):**
 - TOP intercepts payments tied to tax identification numbers (TINs) or Social Security numbers to satisfy Medicare debts. These offsets can complicate settlements and disrupt payments to beneficiaries.



Litigation Risks and Compliance Strategies: Treasury referrals can lead to post-settlement litigation, including double damages lawsuits. Such cases can involve any party to the settlement. Compliance strategies to avoid these risks include:

- Proactively addressing conditional payment letters.
- Maintaining accurate Section 111 reporting data, particularly addresses and policy limits.
- Regularly pulling open debt reports from the Medicare Secondary Payer Recovery Portal (MSPRP) to monitor potential debts.

Case Studies and Lessons Learned: Real-world examples illustrate common errors that lead to Treasury referrals, such as incomplete disputes, improper labeling of appeals, and failure to update reporting data. Cases also highlight the consequences of ignoring pre-settlement lien checks and post-settlement demands.

Best Practices for Preventing Treasury Referrals: The module emphasizes the importance of timely and accurate responses to all Medicare communications. Utilizing tools like the MSPRP and maintaining proactive communication with beneficiaries and recovery contractors are critical for minimizing risks.

By understanding Treasury processes, stakeholders can mitigate financial risks while protecting both carriers and beneficiaries from adverse outcomes like garnishments and litigation. The module provides practical insights into navigating the complexities of MSP compliance, equipping participants with tools to manage conditional payments effectively.

Learning Objectives

1. Understand the role of the U.S. Department of Treasury in Medicare Secondary Payer (MSP) recovery actions and its implications for claims management.
2. Analyze the different paths that conditional payment debts take to the Department of Treasury and how to address them effectively.
3. Recognize the critical deadlines and procedures for disputing and appealing conditional payment demands to avoid Treasury referrals.
4. Learn strategies for preventing debts from escalating to the Treasury level through proactive compliance and accurate reporting.
5. Explore post-settlement litigation scenarios involving Treasury referrals and the risks to parties in settlements, including double damages.

Primary Takeaways

1. Conditional payment debts may be referred to the Department of Treasury for collection if disputes, appeals, or payments are not handled timely or accurately.



2. Medicare's recovery contractors use two distinct paths for debt recovery: the Commercial Repayment Center (CRC) for ORM-related claims and the Benefits Coordination Recovery Center (BCRC) for post-settlement liens.
3. Treasury referrals activate measures like offsets, private collection agency involvement, and wage garnishment, making timely responses crucial.
4. Accurate Section 111 reporting, including up-to-date addresses and data, is essential to prevent miscommunications and missed deadlines.
5. Double damages litigation can impact all parties involved in settlements, emphasizing the importance of compliance.

Course Outline

- 1) Introduction to the Department of Treasury in MSP Recovery
 - a) Importance of Understanding Treasury's Role
 - i) Escalating Medicare recovery actions to the Department of Treasury.
 - ii) Increasing Treasury collections from \$55 million in 2020 to \$83 million in 2022.
 - b) Entities Involved in Treasury Recovery
 - i) Recovery contractors: CRC and BCRC.
 - ii) Treasury's tools: Private Collection Agencies (PCAs) and Treasury Offset Program (TOP).
- 2) Conditional Payment Debt Pathways
 - a) CRC and Continuous Recovery
 - i) Claims with ongoing responsibility for medical (ORM).
 - ii) Continuous debt assertions until ORM termination.
 - b) BCRC and Final Demands
 - i) Recovery triggered by Total Payment Obligation to Claimant (TPOC) reporting.
 - ii) Beneficiary as the default debtor unless reverted to the Responsible Reporting Entity (RRE).
- 3) Timely Response to Medicare Communications
 - a) Types of Communications
 - i) Conditional Payment Letters (CPLs): Non-time-sensitive.
 - ii) Conditional Payment Notices (CPNs): 30-day response deadline.
 - iii) Demand Letters: 60-day payment due date and 120-day appeal deadline.
 - b) Consequences of Missing Deadlines
 - i) Referral to Treasury for collection.
 - ii) Accrual of daily interest and risk of offsets.



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- 4) Prevention Strategies
 - a) Accurate Section 111 Reporting
 - i) Maintaining up-to-date RRE addresses.
 - ii) Correctly reflecting policy limits and ORM terminations.
 - b) Proactive Compliance Measures
 - i) Utilizing the Medicare Secondary Payer Recovery Portal (MSRP) for open debt reports.
 - ii) Responding appropriately to all Medicare communications.
- 5) Post-Settlement Litigation
 - a) Risks of Treasury Referrals
 - i) Exposure to offsets and garnishments.
 - ii) Double damages lawsuits involving attorneys and RREs.
 - b) Importance of Protecting Beneficiaries
 - i) Avoiding harm to beneficiaries through wage garnishment.
 - ii) Ensuring compliance to prevent unnecessary Treasury escalation.
- 6) Conclusion
 - a) Emphasis on Timeliness and Accuracy
 - b) Preparing for Future Compliance Challenges in MSP Recovery

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