

How Medicare Secondary Payer law works

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The Medicare Secondary Payer law essentially allows the U.S. government to recover reimbursement from insurers and self-insured plans that are legally required to be the primary source of payment of medical care for individuals eligible for Medicare who settle a liability claim.

According to the Code of Federal Regulations, 42 CFR 411.25, the parties also are required to notify the federal Centers for Medicare & Medicaid Services in writing when they become aware of any liability claim settlement, award or “other payment” tied to the release of a medical injury claim by a Medicare-eligible beneficiary.

A recent lawsuit filed by the U.S. Department of Justice reveals a lot about how CMS will enforce those laws, observers say.

Observers had thought CMS might seek reimbursement only from future liability claims settlements. However, the lawsuit shows that CMS is looking to past cases. In this instance, the government is suing for reimbursement related to a 2003 settlement of a pollution liability case.